

Local Law Filing

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County City Town Village
(Select one.)

of Buffalo, NY

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NOV 12 2019

DEPARTMENT OF STATE

Local Law No. 4 of the year 2019

A local law Amending the City of Buffalo Charter in relation to Article 28 Taxes and Assessment
(Insert Title)

Be it enacted by the Common Council of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of Buffalo

as follows:

Section 1, that Article 28, of the Charter of the City of Buffalo, adopted pursuant to law is hereby amended to read as follows:

§ 28-1 Tax Districts.

The commissioner of assessment and taxation may from time to time divide the city into tax districts for purposes of assessment and all assessments for general purposes shall be made with reference thereto. The present tax districts shall continue until changed by the commissioner.

§ 28-2 Maps and Surveys.

The department of assessment and taxation shall maintain maps and surveys of all taxable real property in the city certified by the city engineer which shall show the location and boundaries of each parcel as nearly as practicable and the name of the owner or one of the owners as shown by the conveyance presented to the department; and shall from time to time make notations thereon showing changes in boundaries and ownership when such changes are made by deed or subdivision maps filed for record in the office of the clerk of Erie county and not otherwise, and such notations shall be deemed to be a part of such maps and surveys.

Reference shall be made to such maps and surveys in the annual assessment rolls, in all local assessment rolls, in certificates of sale for unpaid taxes, in notices to redeem and in all conveyances of property sold for unpaid taxes and said maps and surveys shall be deemed a part of said assessment rolls, certificates, notices and conveyances of property sold. In assessment rolls such reference may be made generally in the captions thereof.

§ 28-3 County Clerk To Submit Conveyances and Maps.

Every deed or other instrument of conveyance and every subdivision map of lands in the city filed with the clerk of Erie county shall, within forty-eight hours after said filing, be presented by said clerk to the department of assessment and taxation for the purpose of making changes on its maps and surveys. If said county clerk fails or refuses to

(If additional space is needed, attach pages the same size as this sheet, and number each.)

present said deeds or maps as aforesaid, he or she shall be personally liable to the city or to any person for any damages caused by said neglect or refusal.

B. Registration of Owners, Mortgagees and Tax Agents

§ 28-4 Registration.

The department shall maintain a book or books of registration in which shall be entered the name, address, and telephone number of each owner or mortgagee of land in the city who has filed the statement of his or her name, address, and telephone number as provided in section 28-5 and the name, address, and telephone number of each tax agent as shown in the appointment provided in section 28-6, opposite each parcel of land of which he or she is such owner, mortgagee or agent, and in which shall be noted from time to time any changes in name, address, or telephone number made pursuant to such section. The address given shall not be a post office box.

§ 28-5 Owners and Mortgagees.

Each owner of lands in the city and each mortgagee of any such lands shall file with the department a written statement showing his or her name, address, and telephone number and giving a description of each parcel of such land of which he or she is the owner or mortgagee. The address given shall not be a post office box. Upon any change in the name, address or telephone number, a written notice of such change shall be filed with the department of assessment and taxation

§ 28-6 Appointment of Tax Agents by Nonresidents.

Any owner or mortgagee of lands in the city but residing outside the city may file with the department for registration a written appointment, duly acknowledged, of a resident of the city as his or her tax agent, and may from time to time file in like manner a written revocation of such appointment or make a new appointment.

The appointment shall contain the name, address, and telephone number of such owner or mortgagee and the name, address, and telephone number of the agent which shall be deemed to be the name, address, and telephone number of such agent until such owner, mortgagee or agent files with said department a written notice of change of name, address and/or telephone number. The address given shall not be a post office box.

§ 28-7 Service of Notices.

If a nonresident or mortgagee shall file an appointment of a resident tax agent in the manner and form provided by section 28-6 or if a resident owner or mortgagee shall file the written statement required by section 28-5 then all notices required to be served upon such owner or mortgagee under any provision of this act, relating to tax or assessment rolls or to taxes and assessments, or proceedings to collect or enforce the collection of taxes and assessments or any other provisions of the laws, ordinances, rules or regulations of the city of Buffalo, shall be deposited in the

United States postal service, postage prepaid, and directed to the names and addresses of the owner, mortgagee or tax agent, as the case may be, shown in the registration book kept as required by section **28-4**.

In all other cases such notices, directed to the name of the owner and the address, if any, as the same appears on the department of assessment and taxation's maps and/or records, and if no address there appears then with the address Buffalo, New York, and deposited in the United States postal service, postage prepaid, shall be deemed sufficient service thereof.

§ 28-8 Failure of Owner or Mortgagee To Register.

Any owner or mortgagee, who fails, refuses or neglects to furnish to the department of assessment and taxation his or her name and address for registration or any change of address, shall not be heard to question or dispute the validity or regularity of the service provided for in the next preceding section.

C. Taxes and Assessments

§ 28-9 Fiscal Year.

The fiscal year shall begin on the first day of July.

§ 28-10 General Tax Levy.

The sum total of the estimates of expenditures respectively for school purposes, for the construction and maintenance of streets and highways, and for all other purposes contained in the annual budget as adopted, less the estimates of revenue therein contained, applicable respectively for school purposes, for the construction and maintenance of streets and highways, and for all other purposes, shall be raised by general tax.

§ 28-11 Apportionment of Tax Levy.

As soon after the adoption of the annual budget as practicable, the commissioner shall apportion the amount to be raised by general tax under said budget upon the taxable property within the city as set down in the completed annual assessment rolls of the year and shall set down in a column in said rolls opposite to the several sums appearing on said rolls as the valuation of real property, the respective sums to be paid as a tax thereon.

§ 28-12 Taxable Status Fixed.

The taxable status of all persons and properties in the city shall be fixed each year on the first day of December for the following fiscal year.

§ 28-13 General Tax Lien.

All taxes and assessments, together with interest thereon as provided by law, shall be liens upon the lands upon which they are assessed from the time of publication of the notice by the commissioner required by section 28-64 until paid and shall be preferred in payment to all other charges. Taxes and assessments upon the general tax rolls may be paid and shall have priority in

the inverse order of time in which they become liens, and all taxes and assessments which are now liens on the property assessed shall continue to be liens until paid.

§ 28-14 Presumption of Validity of Taxes and Assessments.

Every tax levied and assessment made is presumed to be valid and regular and that all steps and proceedings required by law were taken and had until the contrary should be made to appear.

§ 28-15 Local Assessments; No Exemption.

No lands in the city shall be exempt from local assessment.

§ 28-16 Local Assessments; Council's Power.

The council shall estimate and fix the amount of money to be raised by local assessment and shall, except as provided in this act, determine whether the expense of a work or improvement shall be paid in whole or in part by local assessment and fix the proportion locally assessable.

The cost and expense of any work hereafter done (a) in regrading, resurfacing, repaving or reconstructing of a street, alley, park approach or public thoroughfare or (b) in constructing a widened pavement on any street, alley, park approach or public thoroughfare, shall be paid from the general fund, and no part of such cost or expense shall be defrayed by local assessment.

The city may, by agreement with the federal government, fix and determine the amount which shall constitute the contribution of the city toward the annual cost of keeping and maintaining in navigable condition Buffalo river and other waterways within the city, and may pay over to the federal government the amount of such contributions, and the council may determine whether the amount of such contributions shall be paid in whole or in part by local assessment and fix the proportion locally assessable.

§ 28-17 Local Assessment Lien.

Every assessment for local improvements shall become a lien upon the property assessed, upon the first publication of the notice, provided for in section 28-53 and shall continue to be a lien until paid, and all assessments for local improvements which are now liens on the property assessed shall continue to be liens until paid.

All local assessments, when added to the general roll, shall be liens to the same extent as taxes levied in the general roll and the same remedies and methods of collection shall apply to them, except as may be otherwise provided in this act.

§ 28-18 Payments wholly by Local Assessment.

The cost and expense of the following work, improvements and changes shall be defrayed wholly by local assessment, to wit:

- (a) The construction of sewers and receivers, except sewers designated by the council as public trunk sewers.

- (b) The construction, reconstruction and repair of sidewalks, and the cleaning or the removal of snow and ice therefrom. However, any cost or expense incurred in the construction, reconstruction or repair of any sidewalk which has been damaged by reason of trees, or roots of such trees, situated on city-owned lands shall be paid from the general fund and no part of such cost or expense shall be defrayed by local assessment.
- (c) The original grading, surfacing and paving of streets and alleys; in those instances where real property is situated at the intersection of two or more streets or alleys, such real property shall be assessed for the full cost and expense of the original grading, surfacing and paving of that street or alley which abuts the frontage thereof and one-third of the cost and expense of the original grading, surfacing and paving of those streets or alleys which abut the side or rear thereof for a distance of one hundred and fifty feet or less; such real property so situated at the intersection of two or more streets or alleys shall be assessed for the full cost and expense of the original grading, surfacing and paving of that portion of the street or alley which abuts the side or rear thereof for a distance greater than one hundred and fifty feet; two-thirds of the cost and expense of the original grading, surfacing and paving of those streets or alleys which abut the side or rear thereof for a distance of one hundred and fifty feet shall be defrayed from the general fund; the street or alley constituting the frontage of such real property situated at the intersection of two or more streets or alleys shall be conclusively determined from the current assessment rolls.
- (d) Any work or improvement required by ordinance or by the commissioner of public works to be done by the owner or occupant of lands in front of or upon such lands which he omits to do and which the city does or causes to be done.
- (e) Any work or improvement done or caused to be done by the city in connection with the removal or repair of unsafe structures.
- (f) Any work or improvement done or caused to be done by the city in laying sewer, water and gas service pipes from a main to or beyond the curb. However, when the relocation of any water, sewer or gas service pipe, connection or box is necessitated on account of the construction of a widened pavement on any street, alley, park approach or public thoroughfare, the cost or expense thereof shall be paid solely by the city from the general fund and no part of such cost or expense shall be assessed against the premises serviced by such water, sewer or gas service pipe, connection or box and without liability therefor on the part of the owner or occupant of such premises.
- (g) Damages awarded for the alterations of the recorded grade of any street or alley.
- (h) Any work in the removal of unlawful encroachments and the abatement of nuisances.
- (i) Any work or improvements in constructing and maintaining retaining walls or other similar structures along the public waters of the city abutting on private lands where the abutting owner fails to construct and maintain such retaining walls or similar structures required by ordinance.

- (j) Notwithstanding the foregoing provisions of this section, on and after July first, nineteen hundred sixty-five, the council, in the exercise and in furtherance of the power set forth in section 28-16, when considering the construction of a new street or extension of an existing street, or reconstruction of existing streets referred to as WPA streets may, by a two-thirds vote, find that it is in the public interest that such construction be paid for from the general fund and not by local assessment, and shall so order and direct the commissioner.

§ 28-19 Payment in Fixed Proportion by Local Assessment.

The cost and expense of the following work and improvements shall be defrayed in part by local assessment and in the proportions herein set forth:

- (a) One-third of the expense of opening the roadways of the park approaches.

Where there are two roadways in a park approach, one-third of the expense of such work on each roadway shall be defrayed by local assessment and where there are three roadways, one-third of the expense of such work on each lateral roadway shall be defrayed by local assessment, and the whole expense of such work on the central roadway shall be paid from the general fund.

- (b) One-third of the expense of surfacing with pavement of any street or alley which has been previously paved in accordance with "special specifications for concrete base pavement" in accordance with section 30-7.

- (c) One-third of the cost and expense of the original grading, surfacing and paving of those streets or alleys which abut the side or rear of real property situated at the intersection of two or more streets or alleys for a distance of one hundred fifty feet or less as provided in section 28-18.

§ 28-20 Remedy of Apportionment.

No tax or assessment shall be deemed invalid by reason of being assessed upon real property which has been subdivided or different portions of which are owned by different persons, and the remedy of such persons shall be confined to division and apportionment of the tax or assessment as hereinafter provided.

§ 28-21 Apportionment.

Any owner or mortgagee of real property may apply to the commissioner before March first in any calendar year succeeding the calendar year when a tax or assessment became a lien upon the property to have the tax or assessment thereon divided upon different portions of the property, and upon such application, the commissioner may, if he or she deems it proper and feasible, make a statement of such division and apportionment, as nearly as may be.

The commissioner may, if necessary, without such application, when adding a local assessment or installment thereof to the annual assessment rolls for the next succeeding fiscal year, make a statement of such division and apportionment of such local assessments or installments thereof.

Within five days after making such division and apportionment the commissioner shall serve in the manner provided in section 28-7 of this charter a copy of such statement of division and apportionment on the owners of the real property affected thereby and on holders of certificates of sale thereon and on such mortgagees of the real property affected thereby as have registered their names and addresses as provided by section 28-5 of this charter. If within twenty days after the completion of such service upon all such owners and mortgagees no application shall be made by them or any of them, to the court, as provided in the next section, the commissioner shall thereupon make the division and apportionment on the assessment rolls and after such division and apportionment is so made upon the assessment rolls, the director of the treasury shall receive and receipt for any portion of the tax or assessment so divided and apportioned, and any real property upon which the part paid is apportioned and shall thereupon be discharged from the lien of the tax or assessment.

§ 28-22 Apportionment by Court.

Within the time limited by the last preceding section any owner, holder of a certificate of sale or registered mortgagee of real property affected by the statement of division and apportionment so as aforesaid made by the commissioner may present to the supreme court at any special term thereof held in Erie county a petition asking that such tax or assessment be divided and apportioned upon different parts of the property assessed upon a basis other than determined by the commissioner. Notice of such apportionment and a copy of such petition shall be served on the corporation counsel at least four days before the same is returnable. The court may by order require the city and the owners, holders of certificates of sale and registered mortgagees of the property assessed to show cause why such tax or assessment should not be so divided and apportioned, and a copy of the order shall be served personally upon the corporation counsel and upon all owners; holders of certificates of sale and registered mortgagees aforesaid within the state, and the court shall give such directions as to the service of nonresidents and unknown parties as it may deem proper. Upon the return day of such order the court shall hear the proofs and allegations of the parties appearing and shall make such order as justice requires. If the court shall order the taxes and assessments divided and apportioned, it shall indicate the manner of division and apportionment, and a certified copy of the order shall be filed with the commissioner. Any person may pay the tax or assessment or any part thereof as divided and apportioned by the order of the court, and the real property upon which the part paid is apportioned shall be discharged from the lien of the tax or assessment.

§ 28-23 Annuling Proceedings for Irregularity.

When it shall appear that the proceedings in ordering or levying any tax, or in ordering or making any assessment, have been so irregular as to render them illegal and void, the council may annul them, or may annul all of them subsequent to and including the irregularity, and may begin the proceeding anew, or from the point where the irregularity occurred.

§ 28-24 Taxes Upon Gross Incomes or Gross Operating Incomes of Corporations and Persons Furnishing Utility Services.

(a) Definitions. As used in this article:

- (i) The word "utility" includes every person subject to the supervision of either division of the state department of public service, except persons engaged in the business of operating or leasing sleeping and parlor railroad cars or of operating railroads other than street surface, rapid transit, subway and elevated railroads, and also includes every person (whether or not such person is subject to such supervision) who sells gas, electricity, steam, water, refrigeration, telephony or telegraphy, delivered through mains, pipes or wires, or furnishes gas, electric, steam, water, refrigerator, telephone or telegraph service, by means of mains, pipes, or wires regardless of whether such activities are the main business of such person or are only incidental thereto, or of whether use is made of the public streets;
- (ii) The word "person" means persons, corporations, companies, associations, joint-stock associations, co-partnerships, estates, assignee of rents, any person acting in fiduciary capacity, or any other entity, and persons, their assignees, lessees, trustees or receivers, appointed by any court whatsoever or by any other means, except state, municipalities, political and civil subdivisions of the state or municipality, and public districts;
- (iii) The words "gross income" mean and include receipts received in or by reason of any sale, conditional or otherwise, (except sales hereinafter referred to with respect to which it is provided that profits from the sale shall be included in gross income) made or service rendered for ultimate consumption or use by the purchaser in the city of Buffalo, including cash, credits and property of any kind or nature (whether or not such sale is made or such service is rendered for profit), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid, or any other expense whatsoever; also profits from the sale of securities; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profit from the sale of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made); also receipts from interest, dividends, and royalties, derived from sources within the city of Buffalo other than such as are received from a corporation a majority of whose voting stock is owned by the taxpaying utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof, and also profits from any transaction (except sale for resale and rentals) within the city of Buffalo whatsoever;
- (iv) The words "gross operating income" mean and include receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephony or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigerator, telephone or telegraph service in the city

of Buffalo, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid, or any other expenses whatsoever;

- (v) The word "return" includes any amended return filed or required to be filed as herein provided;
 - (vi) The word "comptroller" shall be deemed to refer to and mean the comptroller of the city of Buffalo;
 - (vii) The word "treasurer" shall be deemed to refer to and mean the director of the treasury of the city of Buffalo; and
 - (viii) The words "corporation counsel" shall be deemed to refer to and mean the corporation counsel of the city of Buffalo.
- (b) Imposition of tax. Notwithstanding any other provision of this charter or any other law, tax equal to three per centum of its gross income commencing with the effective date of this subdivision as amended is hereby imposed upon every utility doing business in the city of Buffalo which is subject to the supervision of the state department of public service and which has a gross income for each such period in excess of five hundred dollars, except motor carriers or brokers subject to such supervision under article three-b of the public service law, and a tax equal to one per centum of its gross operating income is hereby imposed for each such period upon every other utility doing business in the city of Buffalo which has a gross operating income for each such period from June first, nineteen hundred fifty, in excess of five hundred dollars, which taxes shall be in addition to any and all other taxes and fees imposed by any other provision of law for the same period.

The tax imposed by this section shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others, but shall constitute a part of the operating costs of such utility.

For the purpose of the proper administration of this section and to prevent evasion of the tax hereby imposed, it shall be presumed that the gross income or gross operating income of any such utility is derived from business conducted wholly within the territorial limits of the city of Buffalo until the contrary is established, and the burden of proving that any part of its gross income or gross operating income is not so derived shall be upon the utility.

A tax imposed pursuant to this section shall have application only within the territorial limits of the city of Buffalo. This section shall not authorize the imposition of a tax on any transaction originating or consummated outside of the territorial limits of the city of Buffalo, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

- (c) Records. Every utility subject to tax under this section shall keep such records of its business and in such form as the comptroller may require. Such records shall be offered

for inspection and examination at any time upon demand by the comptroller or by his or her duly authorized agent or employee and shall be preserved for a period of three years, except that the comptroller may consent to their destruction within that period or may require that they be kept longer.

- (d) Returns. Every utility subject to tax hereunder shall file, on or before September twenty-fifth, December twenty-fifth, March twenty-fifth, and June twenty-fifth in each year for which this tax is imposed, a return for the three calendar months preceding each such return date, including any period for which the tax imposed hereby or by any amendment hereof is effective, each of which returns shall state the gross income or gross operating income in the city of Buffalo, as the case may be, of such utility for the period covered by each such return. Returns shall be filed with the comptroller on a form to be furnished by him or her for such purpose and shall contain such other data, information or matter as the comptroller may require to be included therein. Notwithstanding the foregoing provisions of this subdivision, any utility whose average gross income or average gross operating income in the city of Buffalo, as the case may be, for each such three months' period is less than fifteen hundred dollars may file its returns for such periods on June twenty-fifth in the respective years for which this tax is imposed. The comptroller may require any utility to file an annual return, which shall contain any data specified by him or her, regardless of whether the utility is subject to tax under this section. The comptroller, in order to insure payment of the tax imposed by this section, may require at any time a further or supplemental return which shall contain any data specified by the comptroller. Every return shall have annexed thereto an affidavit of the head of the utility making the same, or of the owner or of a co-partner thereof, or of a principal officer of the corporation, if such business be conducted by a corporation, to the effect that the statements contained therein are true. Returns shall be preserved for three years and thereafter until the comptroller orders them destroyed.
- (e) Payment of tax. At the time of filing a return as required by this section, each utility shall pay to the comptroller the tax imposed by this section for the period covered by such return. Such tax shall be due and payable at the time of filing the return, or if a return is not filed when due, on the last day on which the return is required to be filed.
- (f) Determination of tax by comptroller. In case any return filed pursuant to this section shall be insufficient or unsatisfactory to the comptroller, and if a corrected or sufficient return is not filed within twenty days after the same is required by notice from the comptroller, or if no return is made for any period, the comptroller shall determine the amount of tax due from such information as he or she is able to obtain, and, if necessary, may estimate the tax on the basis of external indices or otherwise. The comptroller shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply to the comptroller for a hearing, or unless the comptroller, of his or her own motion shall reduce the same. After such hearing, the comptroller shall give notice of his or her decision to the person liable

for the tax. Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice laws and rules of the state of New York, if application therefor is made to the supreme court within thirty days after the giving of the notice of such final determination, provided, however, that any such proceeding under article seventy-eight of the civil practice act of the state of New York shall not be instituted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the comptroller and an undertaking filed with him or her, in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

- (g) Proceedings to recover tax. Whenever any person shall fail to pay any tax or part thereof or penalty imposed by this section as in this section provided, the corporation counsel shall upon the request of the comptroller bring an action in the name of the city of Buffalo to recover the same. The proceeds of the judgment obtained in such action shall be paid to the comptroller. Each tax and penalty imposed by this section shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by section one hundred eighty-six-a of the tax law is made a lien. As an additional or alternate remedy, the comptroller may issue a warrant directed to the sheriff of Erie county, commanding him or her to levy upon and sell the real and personal property of the person from whom the tax is due which may be found within his or her county for the payment of the amount thereof, with any penalties and the cost of executing the warrant, and to return the warrant to the comptroller and to pay to him or her the money collected by virtue thereof, within sixty days after the receipt of such warrant. The sheriff shall within five days after the receipt of the warrant file with the clerk of his county a copy thereof, and thereupon such clerk shall enter in the judgment docket the name of the person mentioned in the warrant and the amount of the tax and penalties thereon for which the warrant is issued and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon and shall bind the real property and personal property and chattels real of the person against which the warrant is issued, in the same manner as a judgment duly docketed in the office of such clerk, except that such warrant shall be entitled to any priority of lien that the tax specified therein may have enjoyed. The sheriff shall then proceed upon the warrant in all respects, with like effect, and in the same manner as that prescribed by law in respect to executions issued against property upon judgments of a court of record, and for his or her services in executing the warrant he or she shall be entitled to the same fees, which he or she may collect in the same manner. In the discretion of the comptroller a warrant of like terms, force and effect may be issued and directed to any officer or employee of the department of audit and control of the city of Buffalo, and in the execution thereof such officer or employee shall have all the powers conferred by law upon sheriffs, but he or she shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not satisfied in full, the comptroller

may from time to time issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the city of Buffalo had recovered judgment therefor.

- (h) Notices and limitation of time. Any notice authorized or required under the provisions of this section may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him or her in the last return filed by him or her under this section, or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time, which is determined according to the provisions of this section by the giving of notice, shall commence to run from the date of mailing such notice.

The provisions of the civil practice law and rules relative to the limitation of time for the enforcement of a civil remedy shall not apply to any proceeding or action taken to levy, appraise, assess, determine or enforce the collection of any tax levy or penalty provided by this section.

- (i) Penalties. Any person failing to file a return or corrected return, or to pay any tax or any portion thereof, within the time required by this section shall be subject to a penalty of five per centum of the amount of tax due, plus one per centum of such tax for each month of delay or fraction thereof, excepting the first month, after such return was required to be filed or such tax became due; but the comptroller, if satisfied that the delay was excusable, may remit all or any portion of such penalty. Such penalty shall be paid to the comptroller and disposed of in the same manner as other receipts under this section. Unpaid penalties may be enforced in the same manner as the tax imposed by this section.

Any person, any officer of a corporation, or any co-partner filing or causing to be filed any return, certificate, affidavit or statement required or authorized by this section which is willfully false, and any person who shall fail to file a return as required by this section and the officers of any corporation who shall so fail, shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.

The certificate of the comptroller to the effect that a tax or penalty has not been paid, that a return has not been filed, or that information has not been supplied pursuant to the provisions of this section, shall be prima facie evidence thereof.

- (j) Refunds. If within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the comptroller or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the director of the treasury shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the comptroller. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the comptroller as provided by subdivision six of this section unless the comptroller, after a hearing as by said subdivision provided, or of his or her own motion,

shall have reduced the tax or penalty or it shall have been established in a proceeding under article seventy-eight of the civil practice law and rules of the state of New York that such determination was erroneous or illegal. All refunds shall be made with the approval of the comptroller out of moneys collected under the provisions of this section, deposited to the credit of the special fund provided for by subdivision fourteen hereof. An application for a refund, made as herein provided, shall be deemed an application for a revision of any tax or penalty complained of and the comptroller may receive additional evidence with respect thereto. After making his or her determination, the comptroller shall give notice thereof to the person interested. Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the comptroller and such comptroller shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules of the state of New York, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the comptroller in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

- (k) General powers of comptroller. In the administration of this section the comptroller shall have power to (a) make such reasonable rules and regulations not inconsistent with law as may be necessary for the exercise of his or her powers and the performance of his or her duties under this section, and prescribe the form of blanks, reports and other records relating to the administration and enforcement of this section; (b) assess, determine, revise, readjust and impose the taxes authorized to be imposed under this section; (c) to take testimony and proofs, under oath, with reference to any matter within the line of his or her official duty under this section or he or she may designate and duly authorize an employee to act in his place for that purpose; and (d) request information from the tax commission of the state of New York or the United States collector of internal revenue relative to any person and to afford information to such tax commission or such collector of internal revenue relative to any person, any other provisions in this section to the contrary notwithstanding.
- (l) Administration of oaths and compelling testimony. The comptroller or his or her employee duly designated and authorized by the comptroller shall have power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the powers and duties of the comptroller under this section.

The comptroller shall have power to subpoena and require the attendance of witnesses and the production of books, papers and documents pertinent to the investigations and inquiries which he or she is authorized to conduct under this section and to examine them in relation to any matter which he has power to investigate hereunder and to issue

commissions for the examination of witnesses who are out of the state or unable to attend before him or her or excused from attendance.

A justice of the supreme court either in court or at chambers shall have power summarily to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and documents called for by the subpoena of the comptroller hereunder.

Any person who shall testify falsely in any material matter pending before the comptroller hereunder shall be guilty of a misdemeanor the punishment for which shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both such fine and imprisonment.

The officers who serve the comptroller's summons or subpoena hereunder and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record.

- (m) Returns to be secret. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the comptroller, or any officer or employee of the department of audit and control and of the division of the treasury of the city of Buffalo, to divulge or make known in any manner the receipts or any other information relating to the business of a taxpayer contained in any return required by this section. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the city of Buffalo or of the comptroller, or on behalf of any party to any action or proceeding under the provisions of this section when the returns or fact shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, so much of said returns or of the fact shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a copy of any return filed in connection with this tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the inspection by the corporation counsel of the city of Buffalo or other legal representatives of such city of the return of any taxpayer who shall bring action or proceeding to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted or is contemplated for the collection of a tax or penalty.
- (n) Disposition of revenues. The comptroller shall keep a record of all taxes heretofore or hereafter imposed and other moneys received by him or her under this section and immediately upon receipt thereof shall pay the same into the division of the treasury of the city of Buffalo. Said taxes and other moneys shall be credited to or deposited in the general fund of said city.

§ 28-25 Assessments Upon Deteriorated Areas.

Upon proof satisfactory to the commissioner of community development that the whole property covering at least a city block will be improved or rehabilitated at a cost of at least twice the existent assessed value of such property, said commissioner may designate such areas and the buildings therein which have become physically deteriorated and in an undesirable condition by filing a report, describing such areas by general boundaries, with the common council and a duplicate of such report with the commissioner of assessment and taxation. Upon the filing of such designation by the commissioner of community development, upon the filing of plans and specifications with the commissioner of community development and with the commissioner of assessment and taxation by any person for the improvement or rehabilitation of any such areas, which shall cover at least a city block, at a cost of at least twice the existent assessed value of such property, and upon the approval of the designation and the plans and specifications by the common council, the commissioner of assessment and taxation shall prepare an adjustment of tax assessments for such area, which shall cover at least a city block, the whole of which is or will be improved or rehabilitated, which adjustment shall be based upon the proportional assessed valuation of the area and buildings therein existing at the time the commissioner of public works designates such area which shall be deemed to be the time the project for such improvement or rehabilitation is commenced and shall continue for a period of twenty years, provided such project shall be completed within a reasonable time thereafter.

D. Exemptions

§ 28-26 Veteran's Exemptions.

If the ratio between an exemption granted under section 458 of the real property tax law and the total assessed value of the real property for which such exemption has been granted increases or decreases due only to a full value assessment in this assessment unit, the amount of the exemption heretofore or hereafter granted shall be increased or decreased in such subsequent year in the same proportion as the total assessed value has been increased or decreased.

§ 28-27 Exemption from Taxation of Improvements to Certain Real Property for the Purpose of Accommodating the Physically Disabled.

Improvements to real property used solely for residential purposes as one-, two- or three-family residences shall be exempt from taxation to the extent of any increase in value attributable to such improvements if such improvements are for the purpose of facilitating or accommodating the use and accessibility of such real property by the physically disabled resident owner or physically disabled member of the resident owner's household who resides in the real property.

Such exemption shall be granted only if the commissioner is satisfied that said improvements are necessary to facilitate and accommodate the use and accessibility of said real property by a disabled resident owner or a disabled member of the resident owner's household.

Such exemption shall be granted only upon application by the owner or owners of such real property to the commissioner, which application shall be filed on or before December first. Said application shall be on the form prescribed by the state board of equalization and assessment. Said application shall be filed together with a certified statement of physical disability from a

licensed physician on a form prescribed and made available by the state board of equalization and assessment, stating that the applicant has a permanent physical disability which substantially limits one or more major life activities. In lieu of such certification of physical disability, the applicant may submit a certificate from the state commission for the blind and physically handicapped stating that such applicant is legally blind.

Upon approval of such application, the commissioner shall enter the taxable assessed value of the parcel for which an exemption had been granted on the assessment roll with the taxable property. The commissioner shall, in a separate column, enter the amount of the exemption which shall be the increase in value of the residence attributable to improvements used for the purpose of facilitating and accommodating the use and accessibility of the real property by the physically disabled.

Exemptions granted pursuant to this section shall continue until the improvements cease to be necessary to facilitate and accommodate the use and accessibility of the real property by the resident who is physically disabled.

Exemptions may be granted for such improvements constructed on or after November 1, 1973.

§ 28-28 Historic Property Exemption.

(a) Historic property shall be exempt from taxation to the extent of any increase in value attributable to such alteration or rehabilitation pursuant to the following schedule:

Year of Exemption	Percent of Exemption
1	100
2	100
3	100
4	100
5	100
6	80
7	60
8	40
9	20
10	0

(b) No such exemption shall be granted for such alterations or rehabilitation unless:

(i) Such property has been designated as a landmark, or is a property that contributes to the character of an historic district, created by a local law passed pursuant to section 96-a or 119-dd of the general municipal law;

- (ii) Alteration or rehabilitation must be for the purpose of historic preservation. For purposes of qualifying for a real property tax exemption pursuant to this ordinance, alterations and rehabilitation shall be deemed to be for the purpose of historic preservation if:
 - (a) Only exterior work is involved; or
 - (b) Interior work involves the portion of the building that has been designated as a public interior under the local preservation law; or
 - (c) At least five percent (5%) of the total cost of the project is directly attributable to exterior work and/or work that enhances the structural stability or structural integrity of the property; provided, however, that such portion of interior work done for the purpose of converting property from a one or two family dwelling to a multiple dwelling as defined in the code of the city of Buffalo, and any increase in value resulting from such conversion, shall not qualify for the exemption; or
 - (d) The project returns to use a building which has not been used for a permissible purpose under the zoning code for a continuous period of at least two (2) years;
 - (iii) Such alterations or rehabilitation of historic property meet guidelines and review standards in chapter 337 of the code of the city of Buffalo;
 - (iv) Such alterations or rehabilitation of historic property are approved by the Buffalo preservation board prior to commencement of work;
 - (v) Alterations or rehabilitation are commenced subsequent to the effective date of this section.
- (c) Such exemption shall be granted only by application of the owner or owners of such historic real property on a form prescribed by the state board of real property services. The application shall be filed with the commissioner of assessment and taxation on or before the appropriate taxable status date of the city.
 - (d) Such exemption shall be granted where the commissioner of assessment and taxation is satisfied that the applicant is entitled to an exemption pursuant to this section. The commissioner of assessment and taxation shall approve such application and such property shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in subdivision (c) of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the commissioner of assessment and taxation on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

- (e) Such exemption shall be applicable only to those alterations or rehabilitation which would otherwise result in an increase in the assessed valuation of the real property but which consist of a historic preservation to an existing building structure.
- (f) This section shall take effect immediately and shall apply to assessment rolls completed on or after such effective date.

§ 28-29 Tax exemptions for improvements to property made pursuant to the Americans with Disabilities Act of 1990.

- (a) Real property altered, installed or improved subsequent to the Americans with Disabilities Act of 1990 (P.L. 101-336) for the purposes of removal of architectural barriers for persons with disabilities in existing property shall be exempt from taxation and special ad valorem levies as hereinafter provided.
- (b) Improvements to such real property shall be exempt pursuant to the following exemption schedule:

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

- (c) No exemption shall be granted for alterations, installations or improvements unless such alterations, installations or improvements were commenced subsequent to the effective date of this section. Notwithstanding the foregoing provision, if such alterations, installations or improvements were commenced prior to the effective date of this section, such alterations, installations or improvements may receive an exemption pursuant to the exemption schedule of this section for the remainder of the authorized period of exemption as if such alterations, installations or improvements had been commenced on or after such effective date; provided, however, the property shall not be eligible for refunds of property taxes or special ad valorem levies paid prior to the effective date of this section.
- (d) Such exemption shall be granted only upon application by the owner or all the owners of such building on a form prescribed by the State Board of Real Property Services. The application shall be filed with the commissioner of assessment of the city on or before the appropriate taxable status date of such city.

- (e) If satisfied that the applicant is entitled to an exemption pursuant to this section, the commissioner of assessment shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in subsection three of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the commissioner of assessment on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§ 28-29.1 Living Quarters for Parent or Grandparent Tax Exemption.

- A. Real property shall be eligible for an exemption from taxation to the extent of any increase in assessed value of residential property resulting from the construction of such property for the purpose of providing living quarters for a parent or grandparent, who is sixty-two years of age or older. Such exemption shall not exceed (a) the increase in assessed value resulting from construction or reconstruction of such property, or (b) twenty (20) percent of the total assessed value of such property as improved, or (c) twenty (20) percent of the median sale price of residential property as reported in the most recent sales statistical summary published by the State Board of Real Property Services for the Erie county, whichever is less.
- B. No such exemption shall be granted unless:
 - 1.) The property is within the geographical area in which such construction or reconstruction is permitted; and
 - 2.) The residential property so constructed or reconstructed is the principal place of residence of the owner.
- C. Such exemption shall be applicable only to construction or reconstruction which occurred subsequent to the effective date of this section and shall only apply during taxable years during which at least one such parent or grandparent maintains a primary place of residence in such living quarters.
- D. Such exemption from taxation shall be granted upon an application made annually, upon a form to be promulgated by the State Board of Real Property Services, by the owner of such property to the Commissioner of Assessment and Taxation on or before the taxable status date. If the Commissioner of Assessment and Taxation is satisfied that the property is entitled to an exemption pursuant to this section, he or she shall approve the application and such residential improvements shall be exempt from taxation and special ad valorem levies as provided in this section.
- E. For the purposes of this section, the term "parent or grandparent" shall be deemed to include the natural or adopted grandparents and parents of the owner or spouse of the owner.
- F. Any conviction of having made any willful false statement in the application for such exemption shall result in the revocation thereof, be punishable by a civil penalty of not more than one hundred (100) dollars and shall disqualify the applicant or applicants from further exemption for a period of five (5) years.
- G. This section shall take effect immediately and shall apply to assessment rolls completed on or after such effective date.

Section 28.29.2 Senior Citizen Longtime Resident Exemption

Authority:

The City of Buffalo enacts the following Senior Citizen Longtime Resident Exemption relief for elderly real property owners pursuant to *Section 467-k* of the New York State Real Property Tax Law for eligible residents of the city for the taxable status date and each ensuing taxable status date on the terms and conditions provided in this article.

All relevant city codes and ordinances are incorporated in this article so far as they may be applicable and in the event of any discrepancy between this article and any city code or ordinance, the dispute shall be settled by the commissioner for the department of Assessment and Taxation.

Section 28.29.3 Definitions:

Words used in this section shall have the following meanings as set forth below.

- a. **Taxable Status Date:** Reflects the current condition of the property as of the date in which the roll is filed.
- b. **Income:** The term "income" as used in this section shall mean the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity.
- c. **Adjusted Gross Income:** Where no federal income tax returns were filed for the applicable years, then "income" shall mean adjusted gross income that would have been so reported if such a return had been filed.
- d. **Base Assessment:** For purposes of this exemption "base assessment" shall be the assessment that appeared on the assessment roll immediately preceding the first year in which an exemption was granted pursuant to this section.

Section 28.29.4 Eligibility:

Pursuant to Section 467-k of the New York State Real Property Tax Law, a property may be eligible for a Senior Citizens Property Tax Exemption where;

- 1. The property is a one-, two- or three-family residential property located within a United States census tract that has a median income not exceeding sixteen thousand fifty-six dollars (\$16, 056.00) according to the 2010 decennial census;
- 2. The Property falls within one of the seven census tracks listed below.

<u>Census Track</u>	<u>City</u>	<u>Property Location</u>	<u>Median Income</u>
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<u>71.02</u>	<u>Buffalo</u>	<u>Lower West Side</u>	<u>\$12,492</u>
<u>27.02</u>	<u>Buffalo</u>	<u>Broadway-Fillmore</u>	<u>\$13,420</u>
<u>164</u>	<u>Buffalo</u>	<u>Ellicott</u>	<u>\$13,814</u>
<u>14.02</u>	<u>Buffalo</u>	<u>Pratt-Willert</u>	<u>\$14,212</u>
<u>71.01</u>	<u>Buffalo</u>	<u>Lower West Side</u>	<u>\$15,773</u>
<u>16</u>	<u>Buffalo</u>	<u>Broadway-Fillmore</u>	<u>\$15,893</u>
<u>31</u>	<u>Buffalo</u>	<u>Fruit Belt</u>	<u>\$15,893</u>

3. The property serves as the primary residence of one or more of the owners;
4. All of the owners of the said property are at least sixty-five years of age or older, or in the case of property owned by husband and wife or by siblings, one of the owners is at least sixty-five years of age, as of the taxable status date;
5. One of the owners has owned and resided in the property for 25 consecutive years;
6. The total household income does not exceed \$30,000;
7. Where the property owner met the minimum age requirement prior to the taxable status date but before December 31, of the same year.

Section 28.29.5 Ineligible property:

No Senior Property Tax exemption will apply where the property tax increase is due to:

1. A physical improvement made to the property;
2. A removal or reduction of an exemption on the eligible taxpayer's primary residence;
3. A revaluation that caused the assessment of the residence to increase by a percentage that is less than or equal to the applicable change in level of assessment;
4. The property previously granted an exemption transfers ownership or ceases to meet the eligibility requirements.

Section 28.29.6 Calculation of exemption per eligible property:

1. The city assessor shall annually calculate the eligible property tax exemption by subtracting the "base assessment" from the current year's assessment.

2. The city assessor will mail to each person granted an exemption an application and a notice that the application must be filed no later than the taxable status date in order for the exemption to be granted or continued.
3. Application for exemptions will be made annually.
4. Upon determining that an exemption granted should be discontinued, the assessor will mail a notice to the owner or owners to their last known address obtained through the city's Online Assessment Roll System (OARS).

Section 28.29.7 Failure to receive property exemption application

Failure to receive property exemption application form with the required filing date from the city shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person or persons living within the city.

§ 28-29.8 Residential-Commercial Urban Tax Exemption.

- A. Pursuant to Real Property Tax Law Section 485-a, non-residential real property, upon conversion to mixed-use property, shall be exempt from taxation and special ad valorem levies for a period of twelve years from the approval of an application for such exemption. The increase in assessed value of such property attributable to such conversion shall be exempt as provided below. Such exemption shall be computed with respect to the "exemption base." The exemption base shall be determined for each year in which there is an increase in assessed value so attributable from that of the previous year's assessed value.

The following table shall illustrate the computation of the tax exemption:

Year of Exemption	Percentage of Exemption
1 through 8	100% of exemption base
9	80% of exemption base
10	60% of exemption base
11	40% of exemption base
12	20% of exemption base

- B. Definitions. As used in this section, the following terms shall have the following meanings:

CITY

The City of Buffalo.

APPLICANT

Any person obligated to pay real property taxes on the property for which an exemption from real property taxes under this section is sought.

COMMERCIAL CONSTRUCTION WORK

The modernization, rehabilitation, expansion or other improvement of the portion of mixed-use property to be used for commercial purposes.

COMMERCIAL PURPOSE OR USE

The buying, selling or otherwise providing of goods or services, including hotel services, or other lawful business or commercial activities permitted in mixed-use property.

MIXED-USE PROPERTY

Property on which will exist, after completion of residential construction work or a combination of residential construction work and commercial construction work, a building or structure used for both residential and commercial purposes.

PERSON

An individual, corporation, limited liability company, partnership, association, agency, trust, estate, foreign or domestic government or subdivision thereof, or other entity.

RESIDENTIAL CONSTRUCTION WORK

The creation, modernization, rehabilitation, expansion or other improvement of dwelling units, other than dwelling units in a hotel, in the portion of mixed-use property to be used for residential purposes.

- C. No such exemption shall be granted unless:
1. Such conversion was commenced subsequent to the date on which this local law took effect; and
 2. The cost of such conversion exceeds the sum of one hundred and seventy thousand dollars.
- D. For purposes of this section the term conversion shall not include ordinary maintenance and repairs.
- E. No such exemption shall be granted concurrent with or subsequent to any other real property tax exemption granted to the same improvements to real property, except, where during the period of such previous exemption, payments in lieu of taxes or other payments were made to the local government in an amount that would have been equal to or greater than the amount of real property taxes that would have been paid on such improvements had such property been granted an exemption pursuant to this section. In such case, an exemption shall be granted for a number of years equal to the twelve year exemption granted pursuant to this section less the number of years the property would have been previously exempt from real property taxes.

- F. Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the State Board of Real Property Services. Such application shall be filed with the Commissioner of Assessment and Taxation of the city or Erie County on or before the appropriate taxable status date of such city or county.
- G. If the Commissioner of Assessment and Taxation is satisfied that the applicant is entitled to an exemption pursuant to this section, he or she shall approve the application and such real property shall thereafter be exempt from taxation and special ad valorem levies as in this section provided commencing with the assessment roll prepared after the taxable status date referred to in subdivision F of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§ 28-29.8-1 Business Investment Exemption.

- A. Pursuant to Real Property Tax Law Section 485-b, real property constructed, altered, installed or improved subsequent to the first day of July, nineteen hundred seventy-six for the purpose of commercial, business or industrial activity shall be exempt from taxation and special ad valorem levies, except for special ad valorem levies for fire district, fire protection district and fire alarm district purposes, to the extent hereinafter provided.
- B. Such real property shall be exempt for a period of one year to the extent of fifty per centum of the increase in assessed value thereof attributable to such construction, alteration, installation or improvement and for an additional period of nine years provided, however, that the extent of such exemption shall be decreased by five per centum each year during such additional period of nine years and such exemption shall be computed with respect to the "exemption base." The exemption base shall be the increase in assessed value as determined in the initial year of such ten year period, following the filing of an original application, except as provided in subparagraph (2) of this paragraph.
 - 1. In any year in which a change in the level of assessment of fifteen percent or more is certified for a final assessment roll pursuant to the rules of the state board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the assessor receives the certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the assessor does not have custody of the roll when such certification is received, the assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers

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

2.(a.). The following table shall illustrate the computation of the tax exemption:

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

2.(b.). No such exemption shall be granted unless

- (1) such construction, alteration, installation or improvement was commenced subsequent to the first day of January, nineteen hundred seventy-six;
- (2) the cost of such construction, alteration, installation or improvement exceeds the sum of ten thousand dollars or such greater amount as may be specified by local law or resolution; and
- (3) such construction, alteration, installation or improvement is completed as may be evidenced by a certificate of occupancy or other appropriate documentation as provided by the owner.

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

2.(d.). No such exemption shall be granted concurrent with or subsequent to any other real property tax exemption granted to the same improvements to real property, except, where during the period of such previous exemption, payments in lieu of taxes or other payments were made to the local government in an amount that

would have been equal to or greater than the amount of real property taxes that would have been paid on such improvements had such property been granted an exemption pursuant to this section. In such case, an exemption shall be granted for a number of years equal to the ten year exemption granted pursuant to this section less the number of years the property would have been previously exempt from real property taxes.

- C. Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the state board. Such application shall be filed with the Assessor of the city, town, village, or county having the power to assess property for taxation on or before the appropriate taxable status date of such city, town, village or county and within one year from the date of completion of such construction, alteration, installation or improvement.
- D. If the assessor is satisfied that the applicant is entitled to an exemption pursuant to this section, he or she shall approve the application and such real property shall thereafter be exempt from taxation and special ad valorem levies, except for special ad valorem levies for fire district, fire protection district and fire alarm district purposes, as herein provided commencing with the assessment roll prepared after the taxable status date referred to in subdivision three of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.
- E. The provisions of this section shall apply to real property used primarily for the buying, selling, storing or developing goods or services, the manufacture or assembly of goods or the processing of raw materials. This section shall not apply to property used primarily for the furnishing of dwelling space or accommodations to either residents or transients other than hotels or motels.
- F. In the event that real property granted an exemption pursuant to this section ceases to be used primarily for eligible purposes, the exemption granted pursuant to this section shall cease.

§ 28-29.9 Real Property Tax Exemption for Capital Improvements to Residential Property.

- A. Section 421-f of the New York State Real Property Tax Law authorizes the City of Buffalo to grant partial exemptions from real property taxation of the increase of the assessed value of City of Buffalo properties attributable to reconstruction, alterations or improvements made to residential property.
- B. Eligibility for capital improvement exemption.
 - 1. The property for which exemption is sought must be a one or two family residence.
 - 2. The greater portion of the residence after the capital improvement must be at least five years old. This shall be measured in square footage.

3. The capital improvement must be commenced after the date this local law is enacted.
4. This exemption applies to reconstruction, alterations or improvements at a residential property in the City of Buffalo. It does not apply to ordinary maintenance or repairs. The property owner must submit a statement indicating the capital improvement for which the owner is applying for capital improvement exemption.
5. The value of such reconstruction, alteration, or improvement must exceed the sum of \$5,000. The property owner must attach proper documentation to include, but not be limited to, a construction contract, a building permit, or any receipts and bills to support the cost of the capital improvement.
6. The exemption is limited to \$80,000 in increased market value. The market value of the new construction is calculated by dividing the increase in assessed value attributable to the new construction by the latest State equalization rate or special equalization rate, unless such rate is 95% or more, in which case the increased assessed value will be deemed to be equal to the market value.

C. Exemption Percentages

1. The exemption percentages are as follows:

a)	Year One	100%
b)	Year Two	87.5%
c)	Year Three	75%
d)	Year Four	62.5%
e)	Year Five	50%
f)	Year Six	37.5%
g)	Year Seven	25%
h)	Year Eight	12.5%
i)	Year Nine	0%
2. All property owners applying for a real property tax exemption under this section must complete Form RP-421-f, and submit said form to the City of Buffalo Department of Assessment & Taxation.

§ 28-29-10 Real Property Tax Exemption for Conversion of Certain Residential Properties.

- A. Section 421-i of the Real Property Tax law, as added by chapter 181 of the laws of 2006, authorizes the City of Buffalo to grant partial exemptions from real property taxation of the

increase of the assessed value of certain residential real property attributable to conversion from a multiple dwelling to a single family or two family dwelling.

B. Multiple dwelling buildings, reconstructed, altered, converted back to an owner occupied single family dwelling or any owner occupied multiple dwelling located in the city of Buffalo, that is reduced to at most two units by such reconstruction subsequent to the effective date of this local law shall be exempt from taxation and special ad valorem levies to the extent provided hereinafter.

1. Such buildings shall be exempt for a period of one year to the extent of 100% of the increase in assessed value attributable to such reconstruction, alteration or improvement and for an additional period of 7 years subject to the following:

(a) The extent of such exemption shall be decreased by twelve and one-half percent of the "exemption base" each year during such additional period. The "exemption base" shall be the increase in assessed value as determined in the initial year of the term of the exemption, except as provided in subparagraph (b) of this paragraph. The exemption percentages area as follow:

(i)	Year one	100%
(ii)	Year two	87.5%
(iii)	Year three	75%
(iv)	Year four	62.5%
(v)	Year five	50%
(vi)	Year six	37.5%
(vii)	Year seven	25%
(viii)	Year eight	12.5%
(ix)	Year nine	0%

(b) In any year in which a change in level of assessment of 15% percent or more is certified for a final assessment roll pursuant to the rules of the state board of real property services, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall be the total assessed

value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the assessor does not have custody of the roll when such certification is received, the assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the assessor on the roll. The assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by title three of article five of this chapter for the correction of clerical errors.

- (c) Such exemption shall be limited to \$100,000 in increased market value, or such other sum less than \$100,000, but not less than \$10,000 of the property attributable to such reconstruction, alteration or improvement and any increase in market value greater than such amount shall not be eligible for the exemption pursuant to this section. For the purposes of this section, the market value of the reconstruction, alteration or improvement shall be equal to the increased assessed value attributable to such reconstruction, alteration or improvement divided by the most recently established state equalization rate for the city. Where the state equalization rate or special equalization rate equals or exceeds ninety-five percent, the increase in assessed value attributable to such reconstruction, alteration or improvement shall be deemed to equal the market value of such reconstruction, alteration or improvement.

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

- (a) such reconstruction, alteration or converted improvement was commenced subsequent to the effective date of this local law; and
- (b) the value of such reconstruction, alteration or improvement exceeds \$5,000; and
- (c) the greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least 5 years old.

C. For purposes of this section the terms reconstruction, alteration and improvement shall not include ordinary maintenance and repairs.

- D. Such exemption shall be granted only upon application by the owner of such building on a form prescribed by the state board of real property services. The application shall be filed with the Commissioner of Assessment and Taxation of the city on or before the first of day December in each year, the taxable status date of the city.
- E. If satisfied that the applicant is entitled to an exemption pursuant to this section, the Commissioner of Assessment and Taxation shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as provided in this section commencing with the assessment roll prepared on the basis of the taxable status date referred to in subdivision three of this local law. The assessed value of any exemption granted pursuant to this local law shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.
- F. For the purposes of this section, an owner occupied multiple dwelling building shall mean any building or structure designed and occupied as the temporary or permanent residence or home of two or more families, including the owner of such building.
- G. In the event that a building granted an exemption pursuant to this section ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption granted pursuant to this section shall cease.

§ 28-29.11 Cold War Veterans Exemption; Purpose.

The purpose of this Local Law is to allow for a tax exemption for City of Buffalo Cold War Veterans pursuant to 458-b of the Real Property Tax Law of the State of New York, which was created by Chapter 655 of the Laws of the State of New York for the year 2007. The standards governing the application of the Cold War Veterans Exemption are enumerated in §§ 28-29.5 through 28-29.9 hereof.

§ 28-29.12 Definitions.

Definitions as used in this local law follow:

- A. "Cold War Veteran" means a person, male or female, who served on active duty for a period of more than three hundred sixty-five days in the United States Armed Forces during the period from September 2, 1945 to December 26, 1991, was discharged or released there from under honorable conditions and has been awarded the Cold War Recognition certificate as authorized under Public Law 1005-85, the 1998 National Defense Authorization Act.
- B. "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force and Coast Guard.
- C. "Active Duty" means full-time duty in the United States Armed Forces, other than active duty for training.

- D. "Service Connected" means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in the line of duty on active military, naval or air service.
- E. "Qualified Owner" means a Cold War Veteran, the spouse of a Cold War Veteran, or the unmarried surviving spouse of a deceased Cold War Veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the unremarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.
- F. "Qualified Residential Real Property" means property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this Local Law. Such property shall be the primary residence of the Cold War Veteran or the unremarried surviving spouse of a Cold War Veteran; unless the Cold War Veteran or unremarried surviving spouse is absent from the property due to medical reasons or institutionalization for up to five years.
- G. "Latest State Equalization Rate" means the latest final equalization rate established by the New York State Board of Real Property Tax Services pursuant to Article Twelve of the Real Property Tax Law.

§ 28-29.13 Amount of Exemption.

Pursuant to the provisions of Chapter 655 of the 2007 Laws of the State of New York amending the Real Property Tax Law of the State of New York, the maximum veteran's exemption from real property taxes allowable pursuant to 458-b of the Real Property Tax Law is established as follows:

- A. Qualifying residential real property shall be exempt from taxation to the extent of 15% of the assessed value of such property; provided, however that such exemption shall not exceed the lesser of \$12,000 multiplied by the latest state equalization rate for the City of Buffalo.
- B. In addition to the exemption provided by subsection (A) of this section, where the Cold War Veteran received a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by 50% of the Cold War Veteran disability rating; provided, however, that such exemption shall not exceed \$40,000, or the product of \$40,000 multiplied by the latest State equalization rate for the City of Buffalo, whichever is less.

§ 28-29.14 Limitations.

- A. If the Cold War Veteran receives an exemption under any other Section of the Real Property Tax Law that provides for a veteran's exemption, the Cold War Veteran shall not be eligible to receive the exemption under this Local Law.
- B. Where a qualified owner owns qualifying residential real property on the effective date of this Local Law, or such other date as may be set forth in Section 458-b(2)(c) of the New York State Real Property Tax Law, such ten (10) year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of this Local Law, or such other date as may be set forth in Section 458-b(2)(c) of the New York State Real Property Tax Law.
- C. Where a qualified owner does not own qualifying residential real property on the effective date of this Article, or such other date as may be set forth in Section 458-b(2)(c) of the New York State Real Property Tax Law, such ten (10) year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring at least sixty (60) days after the date of purchase of residential real property, such ten (10) year period shall be measured from the first assessment roll in which exemption occurs. If, before the expiration of such ten (10) year period, such exempt property is sold and replaced with other residential real property, such exemption may be granted pursuant to this Section for the unexpired portion of the ten (10) year exemption period.
- D. Application for the exemption shall be made by the qualified owner, or all of the qualified owners of the property on a form prescribed by the New York State Board of Real Property Tax Services. The owner or owners shall file the completed form in the City of Buffalo's Taxation and Assessment Office on or before the first appropriate taxable status date. The owner or owners of the property shall be required to refile each year. Applicants shall refile on or before the appropriate taxable status date. Any applicant convicted of willfully making any false statements in the application for such exemption shall be subject to the penalties prescribed in the New York State Penal Law.

§ 28-29.15 Effective Date.

This Local Law shall take effect upon its filing in the Office of the Secretary of State and shall apply to assessment rolls based on taxable status dates occurring on or after such date.

§ 28-29.16 Occupancy tax.

Any occupancy tax imposed upon real property pursuant to subdivision c of section one hundred ten of the public housing law shall be and shall remain a lien upon such real property for forty-two years from the date of levy.

§ 28-30 Special Tax Credits and Assessments.

The commissioner shall have the power and be charged with the duty to carry out the purpose and intent of article 4-A of the commerce law, section 485 of the real property tax law and the other applicable laws of the state of New York to grant business facility owners or operators, as

defined by the aforesaid state laws, tax exemptions or tax credits from taxes and special ad valorem assessments imposed to the extent of any increase in the value of the capital improvements, commenced on or after July 1, 1968, consisting of construction, reconstruction, erection or improvements of depreciable real property, as certified in the certificate of eligibility issued by the New York state urban job incentive board, created by section one hundred sixteen of the commerce law, provided that the owner or operator of the business facility, on the form prescribed by said commissioner, to which there shall be attached a copy of the certificate of eligibility so issued, files such application before the taxable status date with the department of assessment and taxation of the city and simultaneously therewith files the application with the state board of equalization and assessment and the state job incentive board.

Upon submission of the aforesaid application and proof, the commissioner, with or without a hearing, shall consider the application for such exemption and, if found to be in order, determine the assessed value of the exemption in accordance with the certificate of eligibility and enter such value on the exempt portion of the assessment roll.

The commissioner, in his determination, shall grant a one hundred percent tax credit or exemption and the exemption so granted shall continue from year to year during the period of years so approved only if the certificate of eligibility is not revoked or modified and is renewed or extended by the state urban job incentive board.

That any exemption so granted by the commissioner shall commence with the assessment roll prepared on the next following taxable status date of the city of Buffalo.

E. Tax and Assessment Rolls

§ 28-31 Preparation of Annual Roll; Notice of Completion.

The department of assessment and taxation and taxation shall prepare the annual assessment rolls and shall complete same on or before December first each year and immediately after said first day of December shall publish a notice twice a week for two weeks in the publication or publications designated by the council that such rolls have been completed and may be seen and examined at the office of the said department during said month, and said rolls shall be open to public inspection during said month.

§ 28-32 Form of Roll.

The roll shall show the valuations of all taxable lands of each tax district and shall state specifically (a) the names of the owners of the taxable lands so far as they can be ascertained, (b) a brief description of said lands by reference to the commissioner's maps and surveys and such further description as the commissioner shall deem proper, the full and true value of said lands, exclusive of improvements, (d) the full and true value of the improvements on said lands, (e) the total value of said lands and improvements. A separate book of said roll shall show the names of the owners of special franchises, such description of the special franchises wherever located in the city as will be sufficient to identify them, and the value of the special franchises as fixed by the state board of tax commissioners.

No tax on real property or special franchise shall be invalid by reason of any error or omission in naming the owner or owners on said roll, and no tax upon lands described by reference to the commissioners of assessment's maps and surveys shall be invalid by reason of any error in the description of said land, if it is sufficiently definite to locate said land upon said maps and surveys.

§ 28-33 Grievances.

During said month of December, any person perceiving himself aggrieved by the assessed valuation of his real property may apply to the department to have the same corrected. Notwithstanding the foregoing, grievances from 2001 may be filed until January 31, 2002.

The application must be in writing, stating the grounds of objection thereto and thereupon the department must examine into the complaint.

If, after such examination, the assessment is erroneous in the judgment of the commissioner, he or she shall correct the same.

§ 28-34 Correction; Notice of Increase.

The department may, on or before March first each year, correct by increasing or diminishing the assessed valuation of any real property on said rolls, as, in the judgment of the department, is just or necessary to equalize taxation.

No increase of valuation shall be made after December first, except upon notice given to the taxpayer affected by such increase at least ten days before March first that such increase is intended to be made, and that during such period he or she may be heard to show why such increase should not be made. Such notice may be served personally or by mail directed to the taxpayer affected by such increase at his or her last known place of residence.

§28-35 Completion of Roll; Notice; Delivery.

On or before April first the department shall carefully review, correct and complete said rolls.

The department shall make two copies of the rolls as revised and corrected, except it shall not be necessary to include in said copies the separate valuation of said land and improvements, and shall attach thereto a certificate to the effect that they are correct copies of the rolls on file in the office of the department.

The department shall retain one copy of each roll in its office, and shall, on one of the first three days of March in each succeeding year, publish in the publication or publications designated by the council a notice that such assessment rolls have been finally completed and may be seen and

examined at the department's office during the period of ten days immediately following said publication.

The department shall on or before the first of October in each year deliver one copy of the rolls to the clerk of the Erie county legislature.

The original rolls shall be retained by the department and said rolls and the copy of the rolls delivered to the said clerk of the Erie county legislature shall be the assessment rolls of the city and the several tax districts of the city, for city, county and state purposes.

§ 28-36 Correction of Roll Prior to Sale.

The department shall have the power, at any time prior to the sale of lands for nonpayment of taxes and assessments, to rectify any error committed in making up the annual assessment rolls and of the local assessments therein upon which such tax sale is based, in the following cases only:

- (a) where the error is clerical only,
- (b) where there is a mistake in the name of the party taxed or assessed,
- (c) where the real estate or the improvement thereon is erroneously described or stated,
- (d) where the property assessed is by law exempt from assessment or taxation,
- (e) where a correction was directed to be made in accordance with the provisions of section **28-33**.

§ 28-37 Presumption of Regularity.

The annual tax roll, when advertised pursuant to section 28-35, shall be presumptive evidence that all the previous proceedings, including the assessing and levying of the tax, were regular and according to law.

Local Assessment Rolls

§ 28-38 Local Assessments; Commissioner's Power.

All local assessments shall be made by the department of assessment and taxation and in the order in which they shall be estimated and fixed unless otherwise directed by the council.

§ 28-39 Principle of Assessment.

The department shall assess the whole amount ordered to be assessed upon the parcels of land, benefited by the work, act or improvement in proportion to such benefit, except in the cases in which by this charter the assessment is to be made upon a different principle, and in such cases the said department shall make the assessment upon the principal prescribed in each case by this act.

§ 28-40 Preparation of Local Roll; Notice of Completion.

The department of assessment and taxation shall in the assessment roll briefly describe the several parcels of land assessed, as nearly as practicable, and set down the amount assessed on each parcel.

If the name of any person is marked upon the books in the commissioner's office as the owner of any parcel, the department shall enter such name on the assessment roll, but the omission to do so shall not invalidate the assessment; and the insertion of the name of a deceased person, alone or in connection with the words "estate of," or the insertion of the name of a person who is not the owner, shall not invalidate such assessment.

After the roll is completed, the department shall publish notice thereof in the publication or publications designated by the council, and on or before the day of such publication shall serve a notice upon the persons whose names shall be entered on the roll or on the registered agent of such persons in the manner provided in section 28-7 of this act. The notices so published and served shall be dated as of the date of publication thereof and shall state that the roll, naming it, will remain in the office of said department open for inspection and revision for ten days from the date of said notice and that objections to the roll and/or the improvement for which the same was made may be filed with said department within ten days from the date of said notice. Any number of rolls may be included in one published notice. Such roll or rolls shall remain open for inspection and revision during the time specified in the notice.

§ 28-41 Grievances.

During the said period that said roll remains with the department for inspection and revision, any person conceiving himself aggrieved may file with said department objections to the roll and/or to the improvement for which the same was made. Such objections must be subscribed and verified by the objector or his or her agent having knowledge of the facts and shall specify a name and address to which the objector asks that notices relating to such objections be sent. The grounds upon which such objections may be made shall not be limited. The said department shall read and examine any such complaints so far as the same relate to the assessments or roll and, if just, shall correct said roll or make a new and revised assessment roll.

§ 28-42 Delivery of Revised Roll to Corporation Counsel.

The department shall make and sign a copy of the revised roll and attach to it proof by affidavit of the giving of the notices required by section 28-40 which affidavit shall be presumptive proof of the facts therein recited, and shall deliver the same to the corporation counsel, together with any objections filed pursuant to section 28-41.

§ 28-43 Corporation Counsel's Certificate.

The corporation counsel shall thereupon cause such revised roll with the accompanying proof to be examined as to the regularity of the proceedings. If he finds such proceedings to be regular, he or she shall annex his or her certificate of the fact to the roll and, if no objections were filed pursuant to section 28-41, deliver the roll to the department of assessment and taxation to be

proceeded with, and the roll shall then be deemed confirmed; if, however, objections were filed, he or she shall transmit the same with the assessment roll to the city clerk to be proceeded with; if he or she finds such proceedings to be irregular, he shall annex to the roll his certificate of the fact, specifying in what the irregularity consists, and lay the same with the objections, if any, to the roll and/or improvement before the council, which may take such action thereon as it deems expedient but shall not confirm the roll without the notice and hearing to objectors, if any, required by section **28-44**.

§ 28-44 Notice by City Clerk.

When an assessment roll with objections thereto shall be delivered to the city clerk to be proceeded with, he or she shall give written notice by depositing the same in the post office of the city, postage prepaid, directed to the name and address, if any, given for that purpose in each of such objections separately filed, that such objections will be heard by the council at its regular meeting specified in such notice next following the expiration of five days from the mailing of said notice. If the objector has failed in said objections to ask that notices relating thereto shall be sent to a name and address therein specified, then such notice shall be directed to the objector to the address, Buffalo, New York.

§ 28-45 Action of Council on Objections.

The city clerk shall, at the meeting of the council specified in the notice of hearing, lay the roll and the filed objections before the council. The council shall, on such day or on such other day as it may appoint, hear the objections and confirm the roll, or annul it or refer it back to the commissioner to make a new assessment.

§ 28-46 Delivery of Roll on Confirmation After Objections.

Upon confirmation of any roll, after the hearing of objections thereon, the city clerk shall attach to it proof of the giving of the notice required by section **28-44** and his or her certificate that the roll has been confirmed and deliver the same to the department.

§ 28-47 New Assessment Directed by Council.

When the council refers back an assessment roll to the department with directions to make a new assessment, the said department shall forthwith proceed to make a new assessment in the same manner as provided for an original assessment.

§ 28-48 Division of Assessment Roll.

The council may determine that a street, or any part thereof, is not in suitable condition to proceed with a local improvement as a whole, and may direct the department to divide the assessment roll made, or to be made, to defray the expense of such improvement, and make the same in two or more parts, to be designated and known, the first as part one and the others respectively by successive numbers, and may direct the department to refrain from providing for collecting one or more parts for such time, not exceeding one year, as the council may fix, and then to be proceeded with pursuant to the provisions of this act.

§ 28-49 Payment in Installments.

When any work or improvement is ordered by the council, the several assessments contained in any roll made for the purpose of raising, in whole or in part, the money to pay for such work or improvement, may, in the discretion of the council, with due regard to the financial burden imposed by such assessment on the taxpayers affected on said roll and with due regard to the cost to the city of collecting said money by installments, be divided into not more than ten equal annual installments, provided, however, that assessments for the purpose of raising, in whole or in part, the money to pay for off-street parking facilities may be divided into not more than fifteen equal annual installments.

Upon the written certificate of the comptroller that in his or her judgment, having due regard to the cost of collection, to the effect thereof on the limitation of the city's power to incur indebtedness and to sound financing, the said assessment roll may properly be divided into more than ten equal annual installments, the council may in its discretion divide the assessment roll but only into as many equal installments as the comptroller shall prescribe in his or her certificate; provided, however, that assessment rolls for off-street parking facilities may not be divided into more than fifteen equal annual installments. Such division shall be made prior to the confirmation of the roll.

The first installment and the whole of any assessment not exceeding twenty-five dollars shall be due and payable from and after the time specified in section 28-71 of this charter for the collection of assessments, and the remaining installments each successive year from said date.

The second and subsequent installments shall bear interest at the rate of five per centum per annum from said date until they shall severally become due and payable. Monthly additions shall be made on each past due and unpaid installment, as provided for other local assessments, commencing one month after said installment shall become due and payable. The collection of such rolls shall proceed in the manner provided for other assessments.

§ 28-50 Periodical Local Assessment Rolls.

The commissioner of public works shall report, as far as possible, to the council each month all work done by the city in making sewer, water and gas connections, constructing and repairing sidewalks and removing snow and ice therefrom and removing street obstructions, and the council may order the department of assessment and taxation to assess the same on the premises benefited thereby, and to include all of such work in a monthly or other periodical assessment roll in the discretion of the commissioner of assessment. Upon receipt of any such periodical assessment roll regarding the replacement or repair of sidewalks, the council may direct the department of assessment and taxation to assess the cost thereof into five equal installments. The second and subsequent installments shall bear interest at the rate of five percent per annum from said date until they shall severally become due and payable. Any such work omitted from one monthly or periodical roll shall be included in the next.

§ 28-51 Action of Council on Periodical Rolls.

If the roll objected to is a monthly or periodical assessment roll for work mentioned in section 28-50 of this charter, the council may confirm the roll, in whole or in part, and may make such corrections, changes and alterations in the roll and the assessments therein as shall be deemed just and equitable and confirm it as so corrected and changed. The council may strike an assessment from such monthly roll and such assessment may be included in a later roll.

§ 28-52 Notice of Confirmation of Roll.

Upon confirmation of an assessment roll, the department shall cause to be published twice a week for two weeks in the publication or publications designated by the council a notice that the assessment roll has been confirmed, and that certiorari proceedings may be commenced to review said roll at any time within two weeks from the first publication of said notice.

§ 28-53 Notice To Pay Assessments.

After the expiration of the period prescribed in the commissioner's notice under the last preceding section, if a writ of certiorari to review said roll has not been applied for, or if the collection of said rolls has not been stayed by the order of a court or judge in an action brought to test the legality of any assessments contained in said roll, and after written certification to the department of assessment and taxation from the department in charge thereof that the work has actually begun, the department of assessment and taxation shall publish a notice five times successively (Sundays and legal holidays excepted) in the publication or publications designated by the council that any assessment contained in said roll, naming and describing it, may be paid to the director of the treasury at any time before the expiration of one month from the first publication of said notice without any addition, and that an addition of one per centum will be added thereto each month until the assessment is placed upon the general tax rolls.

§ 28-54 New Assessment for Deficiency.

In case an assessment shall prove to be insufficient to defray the expense of the work or improvement for which it was made, the council shall determine the amount of the deficiency and may direct the department of assessment and taxation to apportion the same ratably upon the property assessed in the original assessment roll. The department shall make an assessment roll accordingly, and the subsequent proceedings thereon shall be the same as in the case of the original assessment roll.

§ 28-55 New Assessment After Judicial Decree.

If the council had power to order an assessment which assessment is finally declared void, for irregularities or defects occurring after such order, in an action or proceeding brought to determine the legality of such assessment, the department of assessment and taxation shall forthwith proceed to make a new assessment for the work or improvement for which the void assessment was ordered, in the same manner as provided for an original assessment.

Transit Mall Service District

§ 28-56 Vacancy and Parking Information Statement.

On or before March first in each year, the owners of real property located within the transit mall service district established pursuant to chapter 673 of the laws of 1983 of the state of New York shall file with the department of assessment and taxation a statement, subscribed and verified by the owner or his agent, containing the following information:

- (a) The name of the owner;
- (b) The address and description of the property;
- (c) The amount of vacant rentable space, excluding common areas, unimproved areas, and areas not designed for occupancy, in square feet; and
- (d) The amount of space, in square feet, which is used for residential parking, employee parking or unrestricted parking.

In the event of failure of the owner of any above described property to file such statement, there shall be a presumption that such property does not have vacant rentable space, and that space used for parking, if any, is used for commercial parking, and the department shall prepare and complete the transit mall service charge roll in accordance with such presumption(s).

§ 28-57 Preparation of Annual Transit Mall Service Charge Roll.

The department of assessment and taxation shall prepare and complete the annual transit mall service charge roll on or before April 1 in each year, stating the following information:

- (a) The full and true value of all lands and improvements within the transit mall service district;
- (b) The name of the owner of each property; address and description of the property; total lot square footage; total gross building square footage including total floor square footage based on exterior building dimensions, exclusive of the attic(s) and below surface floors which are unrentable or not designed for occupancy; and the percentage of space devoted to each of the following categories of uses:
 - (i) Restaurant;
 - (ii) Retail;
 - (iii) Entertainment;
 - (iv) Hotel or motel;
 - (v) Wholesale;
 - (vi) Industrial or manufacturing;
 - (vii) or warehouse;
 - (viii) Charitable;

- (ix) Educational;
- (x) Religious;
- (xi) Residential;
- (xii) rentable space, excluding common areas, unimproved areas or areas not designed for occupancy; and
- (xiii) or other uses not otherwise provided for by this section.

Usages of less than five percent shall be apportioned to the predominant usage of the property.

No service charge on real property shall be invalid by reason of any error or omission in naming the owner or owners on said roll, and no service charge upon lands described by reference to the commissioner's maps and surveys shall be invalid by reason of any error in the description of said land, if it is sufficiently definite to locate said land upon said maps and surveys.

§ 28-58 Notice of Completion.

On or before April tenth in each year, the department shall publish notice in the publication designated by the council that such roll has been completed. On or before the date of publication, the department shall serve a notice upon the persons whose names are entered on the roll or on their registered agents. Such service shall be as follows: by deposit in the post office of the city, postage prepaid; directed to the names and addresses of the owner, mortgagee or agent if shown in the registration book kept pursuant to section 28-4 of the Buffalo city charter; in all other cases, the name of the owner and the address, if any, appearing on the department's maps or records, and if no address appears there, then with the address Buffalo, New York. Such notices so published and served shall be dated the same day as the publication, and state that the roll, naming it, will remain in the department's office open for inspection and revision on or before April 30 in each year, and that objections may be filed with the department within such time period.

§ 28-59 Grievances.

- (a) Any person conceiving himself aggrieved may file with the department objections to the roll. Such objections must be filed on or before April 30 in each year; be in writing, subscribed and verified by the objector or his or her agent having knowledge of the facts; state the grounds of objections; and specify a name and address for future notices relating to the objections. The department shall examine any such objections so far as they relate to the roll and, if justified in the department's judgment, shall correct any error giving written notice of its decision to the objector on or before May thirty-first. Provided, however, that any grievance filed concerning the information described in subsection (a) of section 28-57 shall be deemed a grievance filed pursuant to section 28-33 of this charter and shall be governed by section 28-33 and other applicable laws.

- (b) In the event that a grievance concerns the subject matter described in subsection (b) of section 28-57, and such grievance is determined not to be justified in the department's judgment, the objector may, by written notice to the department on or before June tenth, demand a hearing before the service charge review board. The service charge review board shall have no jurisdiction over subject matter described in subsection (a) of section 28-57.
- (c) Within twenty days after receipt of demand for hearing, the service charge review board shall hear and determine said objection. The objector shall be notified of the time and place of the hearing by regular mail postmarked at least four business days prior to said hearing.
- (d) The service charge review board may administer oaths, take testimony and hear proofs in regard to any objection described in subsection (b). The board may require the person whose real property is assessed, or his or her agent or representative, or any other persons, to appear before the board and be examined, and to produce any papers relating to the service charge roll. Minutes of the examination of every person examined upon the hearing of any objection shall be taken and filed in the office of the city clerk.
- (e) The service charge review board shall make a decision by majority vote concerning each objection and shall notify the department of assessment and taxation and the objector of said decision on or before July first. Failure to notify the objector shall not affect the validity of the assessment.
- (f) The department shall make such changes to the transit mall service charge roll as are necessary to conform to the decision of the board.
- (g) Correction of clerical errors, omissions or unlawful entries on the transit mall service charge roll may be made in accordance with article five of the real property tax law; provided, however, that with regard to correction of the information described in subsection (b) of section 28-57, the powers and duties of the board of assessment review shall be deemed the powers and duties of the service charge review board for the purposes of this section.

§ 28-60 Completion of Roll; Notice; Delivery.

The department shall review, correct and complete the service charge roll on or before July 15 in each year. The department shall make two copies of the corrected service charge roll, and attach to each copy a certificate that they are correct copies of the roll on file in the department's office. The department shall publish notice of completion in the council-designated publication(s) on or before July 15 in each year, which notice shall state that the service charge roll has been finally completed and may be seen and examined at the department of assessment and taxation office during the ten days following publication. The department shall deliver one copy of the service charge roll to the clerk of the legislature of Erie county on or before September first. The original service roll shall be retained by the department of assessment and taxation and said roll and the

copy of the roll delivered to the clerk of the legislature of Erie county shall be the service charge roll of the city and the transit mall district of the city for city, county and state purposes.

§ 28-61 Presumption of Regularity.

The annual transit mall service charge roll, when advertised pursuant to section 28-60, shall be presumptive evidence that all the previous proceedings were regular and according to law.

§ 28-62 Service Charge Review Board.

There is hereby created a service charge review board to consist of five qualified electors of the city of Buffalo. Three members of the board shall be appointed by the mayor and two shall be appointed by the president of the common council. The members of the board shall be appointed from a list of not less than twelve nominees of the Downtown Buffalo Management Corporation, and must be knowledgeable about the operation of downtown buildings. Not more than three members shall be directors or officers of Buffalo Place, Inc. The terms of office of members of the board shall be five years.

§ 28-63 Homestead and Non-Homestead Base Proportions.

- (a) Purpose. The purpose of this local law is to adopt the provisions of section 1903 of the real property tax law relating to homestead and non-homestead base proportions.
- (b) Adoption of provisions. The common council of the city of Buffalo hereby adopts section 1903 of the real property tax law.
- (c) The homestead and non-homestead base proportions shall be established by resolution of the common council of the city of Buffalo in accordance with the provisions of article 19 of the real property tax law and the rules of the state board of equalization and assessment, and shall apply to taxes levied on the final assessment roll to be completed and filed each year on behalf of the city of Buffalo and its improvement districts contained therein, until this local law shall be repealed.
- (d) Severability. If any clause, sentence, paragraph, or part of this local law or application thereof to any person or circumstances shall be adjudged by any court to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof or the application thereof to other persons and circumstances, but shall be confined in its operation to the clause, sentence, paragraph or part thereof and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered.

F. Tax and Assessment Collection

§ 28-64 Notice to Pay.

On or before June twentieth in each year the department of assessment and taxation shall publish a notice in the publication or publications designated by the council that the payment of local assessments returned on the general tax roll and the general city tax on said roll may be made to the director of the treasury at the times, and in the manner and with the additions provided in the next succeeding sections.

§ 28-65 When Payable.

The entire local assessment returned on the general tax roll and one-half of the general city tax on said roll shall become due and payable on the first day of July in each year and may be paid to the director of the treasury during the said month of July without additions. The remaining one-half of the general city tax on said roll shall become due on said first day of July, but may be paid to said treasurer on or prior to the thirty-first day of December following without additions.

Whenever said taxes are received by the treasurer through the mails the date stamped by the United States post office at Buffalo, New York, on the container in which the payment is enclosed, shall determine the time of payment.

Pursuant to the New York State Real Property Tax Law Section 925-b., the City of Buffalo may adopt a resolution, prior to the levy of any taxes on real property located within the City of Buffalo, authorizing an extension of no more than five (5) business days for the payment of taxes without interest or penalty to any resident of the City of Buffalo who has received an exemption pursuant to subdivision four of section four hundred twenty-five or four hundred sixty-seven of the New York State Real Property Tax Law related to the principal residence located within the City of Buffalo. If such an extension is granted, and any taxes are not paid by the final due date so provided, those taxes shall be subject to the same interest and penalties that would have applied if no extension had been granted. A resolution authorizing an extension pursuant to Section 925-b of the New York State Real Property Tax Law to those qualified residents as provided in Sections 425 and 467 of the New York State Real Property Tax Law shall be passed by a majority vote of the Common Council subject to the approval of the Mayor in accordance with Article 3 of the City Charter.

§ 28-66 Additions for Nonpayment.

(a) July non-payments.

(i) The department shall add the percentages stated below in paragraph (ii) to the unpaid local assessments returned on the general tax roll and the first half unpaid general city tax on the general tax roll until the sum is paid.

(ii) Schedule of additions:

August 1 to August 31	4.5%
September 1 to September 30	6.0%
October 1 to October 30	7.5%
November 1 to November 30	9.0%
December 1 to December 31	10.5%
January 1 to January 31	12.0%
February 1 to last day of February	13.5%

March 1 to March 31	15.0%
April 1 to April 30	16.5%

For each succeeding month, one and a half per centum shall be added.

(b) December non-payments.

(i) The department shall add the percentages stated below in paragraph (ii) to the second half unpaid general city tax on the general tax roll until the sum is paid.

(ii) Schedule of additions:

January 1 to January 31	3.0%
February 1 to last day in February	7.5%
March 1 to March 30	15.0%
April 1 to April 30	16.5%

For each succeeding month, one and a half per centum shall be added.

(c) Day of payment. Whenever the last day to pay such taxes or assessments without additions shall fall on a Saturday, Sunday or legal holiday, such taxes may be paid on the next business day following such Saturday, Sunday or legal holiday without incurring such additions as would have been made on that day.

§ 28-67 Assessors' Notice of Nonpayment.

On or before the first day of February in each year the department shall give notice to all owners of lands upon which any such tax or assessment remains unpaid that if the same is not paid before the first day of March next succeeding, one percent shall be added to the first half of the general city tax and local assessments and five percent shall be added to the second half of the general city tax as provided in section 28-66 and the property will be sold for taxes, but failure to give such notice shall not invalidate the tax or assessment or subsequent proceedings.

Such notice shall be served as provided in section 28-7 of this charter.

§ 28-68 Assessors Notice of Erroneous Cancellation.

Whenever any tax appearing on the general city tax roll shall be erroneously canceled, the department shall immediately upon the discovery thereof notify the owner of the property upon which the tax was canceled in the manner provided in section 28-7 of this charter that said cancellation was erroneous and that the tax must be paid within thirty days from the date of such notice. If the tax is not paid within said thirty days, the said department shall mark such tax "erroneously canceled," together with the date of such cancellation, and the lien of said tax shall be restored. If such tax is not restored before the first day of March after the general tax roll was made up, the said department shall place said tax upon the general tax roll of a subsequent year

in a separate column and said tax shall have the same force and be collected in the same manner as an original city tax for that year.

§ 28-69 Part Payment.

Any person may pay any one or more taxes or assessments leaving others unpaid to be enforced in the manner provided in this act.

§ 28-70 Payment Before Sale.

Taxes and assessments on the general rolls can be paid to the treasurer with such additions and interest as are provided in this act at any time before the sale for unpaid taxes hereinafter provided with the addition of the expense of publication of notice of sale whenever publication thereof has been commenced or made.

Local Assessments

§ 28-71 When Payable.

All local assessments shall be due and payable on the date of the first publication of the notice of the department of assessment and taxation, pursuant to section 28-53 of this charter, and may be paid at any time before the expiration of one month from such first publication without additions.

§ 28-72 Additions for Nonpayment.

At the expiration of the one-month period provided in the last preceding section, the department shall add one percent to the past due and unpaid assessments and a like percentage shall be added thereto at the end of each month thereafter, until such assessments are added to the general tax roll.

§ 28-73 Interest on Installment Assessments.

Annual interest at the rate of five percent per annum shall be paid on all unpaid installments of assessments at the time any installment after the first shall become due and payable, and the director of the treasury shall not receive payment of any such installment unless such interest is paid at the same time.

§ 28-74 Adding Assessments to General Tax Roll.

The department of assessment and taxation, on the first day of March of each year, shall add to the general tax roll for the next succeeding fiscal year in a separate column opposite to each parcel of land all unpaid assessments and the additions accrued thereon and all unpaid installments of assessments and the additions accrued thereon and the interest payable therewith which became due two or more months prior to the said March first.

§ 28-75 Payment of Assessments Added to General Tax Roll.

After such assessments are added to the general tax roll, all the provisions of this act relating to taxes levied on such general roll in respect to payment, additions thereto and methods and enforcement of collection, shall apply with like force and effect to such assessments.

§ 28-76 **Foreclosure.**

The department of assessment and taxation and taxation, with the assistance of the department of law, shall be responsible for tax foreclosure pursuant to the real property tax law of the state of New York.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 20¹⁹ of the (County)(City)(Town)(Village) of Buffalo was duly passed by the Common Council on October 15, 20¹⁹, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the Mayor and was deemed duly adopted *(Elective Chief Executive Officer*)* on November 7, 20¹⁹, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.

Tiana M. Mark

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 11/7/19

