

SUPPLEMENT TO

# THE CITY RECORD

THE COUNCIL —STATED MEETING OF  
WEDNESDAY, APRIL 22, 2009

**THE COUNCIL**

*Minutes of the  
STATED MEETING*

*of*  
Wednesday, April 22, 2009, 2:40 p.m.

The Public Advocate (Ms. Gotbaum)  
*Presiding Officer*

Council Members

Christine C. Quinn, Speaker

Maria del Carmen Arroyo	Vincent J. Gentile	James S. Oddo
Tony Avella	Alan J. Gerson	Annabel Palma
Charles Barron	Eric N. Gioia	Domenic M. Recchia, Jr.
Gale A. Brewer	Sara M. Gonzalez	Diana Reyna
Leroy G. Comrie, Jr.	Vincent M. Ignizio	Joel Rivera
Elizabeth S. Crowley	Letitia James	James Sanders, Jr.
Bill DeBlasio	Melinda R. Katz	Helen Sears
Inez E. Dickens	G. Oliver Koppell	Kendall B. Stewart
Erik Martin Dilan	Jessica S. Lappin	Eric A. Ulrich
Mathieu Eugene	John C. Liu	James Vacca
Simcha Felder	Melissa Mark-Viverito	Peter F. Vallone, Jr.
Julissa Ferreras	Miguel Martinez	Albert Vann
Lewis A. Fidler	Darlene Mealy	David I. Weprin
Helen D. Foster	Rosie Mendez	Thomas White, Jr.
Daniel R. Garodnick	Kenneth C. Mitchell	David Yassky
James F. Gennaro	Michael Nelson	

Excused: Council Members Baez, Jackson and Seabrook.

The presence of a quorum was announced by the Public Advocate (Ms. Gotbaum).

*There were 48 Council Members present at this Stated Meeting.*

**INVOCATION**

The Invocation was delivered by Bishop Joseph Mattered, Resurrection Church, 740 40<sup>th</sup> Street, Brooklyn, NY 11232.

Let us pray.

Oh, lord, we thank you for these Council Members

Who have given their lives over  
to serve for the good of our great City.  
Give them wisdom to deal with all the great issues  
related to public school tenure, for teachers, excellence for student education,  
budgetary issues related to diminishing tax revenues, with concomitant  
increases  
in the public's need for resources,  
aid for the most marginalized in our midst,  
as well as issues related to immigration, health care, and to the mounting  
challenge of effectively serving  
a multicultural mosaic,  
grant them continual wisdom in their partnership  
with the Mayor in regards to all these issues,  
help them all push through policies  
that will add permanent value rather than those  
that are merely culturally popular.  
Finally, we pray  
that as the community leaders that we are,  
we will all work together,  
we will work closer together  
and focus more on the things that bind  
than the things that divide us.  
That in spite of our conflicting world views,  
we would cooperate with the simplicity of civility,  
and that in the midst of our diversity,  
we would continue  
to seize opportunities for convergence.  
Amen.

Council Member Gonzalez moved to spread the Invocation in full upon the Record.

**Moment of Silence**

At this point, the Speaker (Council Member Quinn) asked for a Moment of Silence in memory of the following individual:

Kelly Breslin, 44, who died on April 21, 2009, was the daughter of newspaper columnist Jimmy Breslin and step-daughter of former Council Member Ronnie Eldridge. Kelly Breslin fell unconscious at a restaurant with friends on April 17, 2009 – she was rushed to Bellevue Hospital and kept on life support for before she died. Sadly, this is the second daughter that Jimmy Breslin has lost in his lifetime. The Speaker (Council Member Quinn) expressed the Council's deepest regrets.

## ADOPTION OF MINUTES

The Speaker (Council Member Quinn) moved that the Minutes of the Stated Meetings of February 26, 2009 and March 11, 2009 be adopted as printed.

## MESSAGES &amp; PAPERS FROM THE MAYOR

M-1385

**Communication from the Mayor - Withdrawing the nomination of Stephen Byrns (M 1355) from the City Council for its advice and consent regarding his reappointment to the Landmarks Preservation Commission.**

April 13, 2009

The Honorable Christine C. Quinn  
City Council Speaker  
City Hall  
New York, NY 10007

Dear Speaker Quinn:

Regarding the March 12<sup>th</sup> letter sent to you to nominate Stephen Byrns for reappointment to the Landmarks Preservation Commission, I hereby ask the City Council to withdraw his name from consideration at this time.

Thank you for your cooperation.

Sincerely,

Michael R. Bloomberg  
Mayor

Received, Ordered, Printed and Filed

M-1386

**Communication from the Mayor - Submitting the name of Margery H. Perlmutter to the Council for its advice and consent regarding her reappointment as a member of the Landmarks Preservation Commission, Pursuant to Sections 31 and 3020 of the City Charter.**

March 12, 2009

The Honorable Christine C. Quinn  
Council Speaker  
City Hall  
New York, NY 10007

Dear Speaker Quinn:

Pursuant to Sections 31 and 3020 of the City Charter, I am pleased to present the name of Margery H. Perlmutter to the City Council for advice and consent prior to her reappointment as a member of the Landmarks Preservation Commission.

Ms. Perlmutter is an attorney and partner at Bryan Cave LLP, and a registered architect. She is a resident of Manhattan, a graduate of Bennington College, Columbia University Graduate School of Architecture, and Fordham University School of Law. When reappointed, Ms. Perlmutter will serve for the remainder of a three-year term expiring on June 28, 2011.

I am grateful to you and the City Council for reviewing this reappointment.

Sincerely,

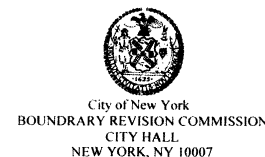
Michael R. Bloomberg  
Mayor

Referred to the Committee on Rules, Privileges & Elections

## COMMUNICATION FROM CITY, COUNTY &amp; BOROUGH OFFICES

M-1387

**Communication from the 421-a Boundary Review Commission – Submitting Geographic Exclusion Areas report, pursuant to the provisions of Local Law 58 of 2006.**



March 23, 2009

Honorable Michael R. Bloomberg  
Office of the Mayor  
City Hall  
New York, NY 10007

Honorable Christine Quinn  
Office of the Speaker  
City Hall  
New York, NY 10007

Dear Mayor Bloomberg and Speaker Quinn:

We are pleased to submit to the Mayor and the Speaker of the City Council, the Boundary Revision Commission's (BRC) report on recommendations for revisions to the Geographic Exclusion Area (GEA) boundaries as required by New York City Administrative Code Section 11-245.1-a(d). Section 11-245.1-a(d) was added to the Administrative Code by Local Law 58 of 2006.


Since December 28<sup>th</sup>, 2006, the date when Local Law 58 of 2006 was enacted, the State legislature has passed and the Governor signed many significant changes to the 421-a Tax Exemption Program. These changes include, most significantly, the expansion of the GEA boundaries, which now include all of Manhattan, the north shore of Staten Island, Red Hook, Sunset Park, Prospect Heights, Crown Heights, Cypress Hills, Mount Hope, Belmont, the Long Island City waterfront and sections of Corona, Queens. This State expansion took effect on July 1, 2008. When the Council and the Administration passed Local Law 58, it was anticipated that one full year would elapse before the Boundary Review Commission would be issuing its recommendations, thereby enabling a detailed study to take place on the effects of the GEA on the development of affordable housing.


With the passage of the State law, which greatly expanded the GEA and delayed its effectiveness until July of this year, there is no ability to adequately assess the effect of the GEA expansions at this time. The Department of Buildings has only received 35 building permit requests for approximately 1625 units in the entire GEA between July 1<sup>st</sup> and February 1<sup>st</sup>, 2009.

Accordingly, as members of the Boundary Review Commission and in light of the new State expansions, we believe eight months is premature to assess the impact of the Council expansion of the GEA and the other indicators that we were asked to review and thus will withhold a thorough review and report until December 1, 2010.

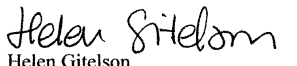
Sincerely,


Signatures/Agency/Titles

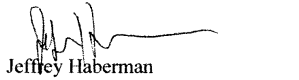
  
Gail Benjamin  
New York City Council  
Director, Land Use Division

  
Anthony Brito  
New York City Council  
Legislative Finance Analyst

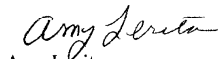
Michael Dardia  
NYC Office of Management & Budget  
Deputy Director


  
Helen Gitelson  
NYC Dept. of Buildings  
Executive Director of Code Affairs

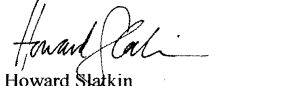
  
Benjamin Goodman  
New York City Council – Housing & Buildings Committee  
Senior Policy Analyst


  
Jeffrey Haberman  
New York City Council  
Council and Deputy Director of the Infrastructure Division


Frances Joseph  
NYC Department of Finance  
Executive Agency Council

  
Amy Levitan  
New York City Council  
Senior Project Manager

  
Jeff Mulligan  
NYC Board of Standards and Appeals  
Executive Director

  
Howard Slatkin  
NYC Department of City Planning  
Deputy Director, Strategic Planning

  
Joseph Rosenberg  
NYC Dept. of Housing Preservation & Development  
Deputy Commissioner of Intergovernmental Affairs

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Received, Ordered, Printed and Filed

Preconsidered M-1388

**Report of the Committee on Finance in favor of approving a Communication from the Office of Management & Budget pursuant to Section 107(b) of the New York City Charter, in regard to the transfer of City funds between various agencies in Fiscal Year 2009 to implement changes to the City's expense budget. (MN-3)**

April 21, 2009

TO THE CITY COUNCIL

Dear Council Members:

In accordance with Section 107(b) of the New York City Charter, I request your approval to transfer City funds between various agencies in fiscal year 2009 to implement changes to the City's expense budget.

This modification (MN-3) will implement expense budget changes, which were reflected in the City's November and January Financial Plan modifications. In addition, as requested by the City Council, this modification reallocates appropriations that were reflected in the FY 2009 Adopted Budget to fund City Council local initiatives.

MN-3 reduces the General Reserve in the Miscellaneous Budget by \$159.3 million, decreases the Budget Stabilization Account in the City's Debt Service Budget by \$105.4 million, provides for a grant of \$545.7 million to the Transitional Finance Authority (TFA) to prepay TFA debt service, and implements agency expense changes that were detailed in the November and January Financial Plans.

Appendix A details the State, Federal and other funds impacted by these changes.

Your approval of modification MN-3 is respectfully requested.

Very truly yours,

Mark Page

**(For text of the MN-3 and Appendix A numbers, please see the Attachment to Res No. 1938 printed in these Minutes with the Report of the Committee on Finance for M-1388).**

Referred to the Committee on Finance

Preconsidered M-1389

**Communication from the Office of Management & Budget - Pursuant to Section 107(e) of the New York City Charter, Reduce the City's General Reserve to reflect a reduction in City revenues in Fiscal Year 2009 in the amount of \$136.8 million. (MN-4)**

April 21, 2009

TO THE CITY COUNCIL

Dear Council Members:

In accordance with Section 107(e) of the New York City Charter, I seek your approval to reduce the City's General Reserve to reflect a reduction in City revenues in fiscal year 2009 in the amount of \$136.8 million.

This modification (MN-4) implements revenue changes that were reflected in the January 30, 2009 Financial Plan. The \$136.8 million reduction results from forecasted decreases in tax collections of \$727.4 million and an \$85.3 million reduction in unrestricted aid, offset by \$500 million savings in prior payables and an increase of \$175.9 million in miscellaneous revenues.

Your approval of modification MN-4 is respectfully requested.

Very truly yours,

Mark Page

Fiscal Year 2009 modification  
MN-4

098	Miscellaneous Budget	
	002 General Reserve	-\$136,825,866
		-\$136,825,866

Referred to the Committee on Finance

M-1390

**Communication from the Public Advocate - Submitting the name of Karen Phillips to the Council for its advice and consent regarding her reappointment to the City Planning Commission, pursuant to Section 31 and 192(a) of the New York City Charter.**

April 20, 2009

Honorable Christine Quinn  
Speaker of the City Council  
City Hall  
New York, NY 10007

**Re: Appointment to the City Planning Commission**

Dear Speaker Quinn:

Pursuant to sections 31 and 192(a) of the City Charter, I am transmitting for the City Council's consideration the name of Karen Phillips for re-appointment to the City Planning Commission, for the term that began July 1, 2005.

Should you need to contact Ms. Phillips, she can be reached at (212) 289-6789. For *further* information, your staff may also contact Mary Mastropaolo, General Counsel, at (212) 669-4719. Please have your office inform me of the date and time of the hearing on this re-appointment once it has been scheduled.

Sincerely,

Betsy Gotbaum

Referred to the Committee on Rules, Privileges & Elections

M-1391

**Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a new base station license Astoria Transportation Corp., Council District 22, pursuant to Section 19-511(i), of the administrative code of the city of New York.**



Matthew W. Daus, Commissioner/Chair

Licensing & Standards Division  
32-02 Queens Boulevard, 2<sup>nd</sup> Floor  
Long Island City, New York 11101-2324  
Tel: 212.227.6324 Fax: 718-391-5695

April 17, 2009

The Honorable Speaker Christine C. Quinn  
Attention: Mr. John Lisianskiy  
Council of the City of New York  
City Hall  
New York, New York 10007

Re: Taxi & Limousine Commission  
For-Hire Vehicle Base License approvals

Dear Speaker Quinn:

Please be advised that on April 16, 2009 the Taxi & Limousine Commission voted to approve the following 19 for-hire-vehicle base license applications:

NEW (5):	LICENSE #	COUNCIL DISTRICT
Astoria Transportation Corp.	B02304	22
Cyclone Car Service, Inc. D/b/a Plaza Cars	B02305	47
Fast City Car & Limo. Service, Inc.	B02311	45
Gaon Car & Limo. Service, Inc.	B02299	44
Red Hook Car & Limo. Service, Inc.	B02308	38
RENEWALS (13):		
Accord Car & Limousine Service, Inc.	B01514	26
Adam's Car & Limo. Service	B01934	43
Flushing Express Corp. D/b/a Flushing Express Car Service	B01497	20
Hoyt Limo. & Service Corp.	B01506	22

Linda & M Transportation, Inc. D/b/a New Yorker Car Service	B00992	22
Mobil Car Service, Inc.	B01492	34
N.J. M. Inc. D/b/a Mid-Island Car Service	B00972	51
NY Kings Transportation D/b/a Kings Car Service	B01650	47
PJ Car Service	B00984	23
R & N Car Service, Inc. D/b/a Everywhere Car Service	B01600	27
SIWR, Inc. D/b/a Wadsworth Car Service	B01186	49
St. Albans-Hollis Car Service	B01958	27
V & M Transportation Corp. D/b/a Empire Car & Limo. Service	B01394	39
RENEWAL & RELOCATION (1):	LICENSE #	COUNCIL DISTRICT
Allen Car Service, Inc.	B01472	1

The complete application package compiled for each of the above bases is available for your review upon request. If you wish to receive a copy please contact Ms. Michelle Lange, Business Licensing Unit, at 718-391-5697.

Please find enclosed herein the original application for each of the approved base stations.

Very truly yours,

Georgia Steele-Radway  
Director of Applicant Licensing  
Taxi & Limousine Commission

Printed on paper containing 30% post-consumer material.

Referred to the Committee on Transportation

M-1392

**Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a new base station license Fast City Car & Limo. Service, Inc., Council District 45, pursuant to Section 19-511(i), of the administrative code of the city of New York.**

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1393

**Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a new base station license Gaon Car & Limo. Service, Inc., Council District 44, pursuant to Section 19-511(i), of the administrative code of the city of New York.**

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1394

**Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a new base station license Red Hook Car & Limo. Service, Inc., Council District 38, pursuant to Section 19-511(i), of the administrative code of the city of New York.**

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1395

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Accord Car & Limousine Service, Inc., Council District 26, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1396

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Adam’s Car & Limo. Service., Council District 43, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1397

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Flushing Express Corp., Council District 20, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1398

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Hoyt Limo. & Service Corp., Council District 22, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1399

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Linda & M Transportation, Inc., Council District 22, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1400

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Mobil Car Service, Inc., Council District 34, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1401

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license N.J. M. Inc., Council District 51, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1402

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license NY Kings Transportation., Council District 47, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1403

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license PJ Car Service., Council District 23, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1404

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license R & N Car Service, Inc., Council District 27, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1405

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license SIWR, Inc., Council District 49, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1406

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license St. Albans-Hollis Car Service., Council District 27, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1407

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license V & M Transportation Corp., Council District 39, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

M-1408

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal and relocation base station license Allen Car Service, Inc., Council District 1, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1391 printed above in this Communications from City, County & Borough Offices section of these Minutes).

Referred to the Committee on Transportation

#### LAND USE CALL UPS

M-1409

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 10 Downing Street, CB 2, Application no. 20095337 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1410

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 768 Ninth Avenue, CB 4, Application no. 20095281 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1411

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20(b) of the Council and Section 20-225(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an enclosed sidewalk café located at 238 West 12th Street, CB 2, Application no. 20085600 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1412

By Council Member Garodnick:

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 39 West 55th Street, CB 5, Application no. 20095085 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1413

By Council Member Gerson:

**Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 151 Mulberry Street, CB 2, Application no. 20085511 TCM shall be subject to review by the Council.**

Coupled on Call – Up Vote

#### LAND USE CALL UP VOTE

The Public Advocate (Ms. Gotbaum) put the question whether the Council would agree with and adopt such motions which were decided in the **affirmative** by the following vote:

**Affirmative** –Arroyo, Avella, Barron, Brewer, Comrie, Crowley, DeBlasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Martinez, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Sears, Stewart, Ulrich, Vacca, Vallone Jr., Vann, Weprin, White, Yassky, Oddo, Rivera and the Speaker (Council Member Quinn) – **48**.

At this point, the Public Advocate (Ms. Gotbaum) declared the aforementioned items **adopted** and referred these items to the Committee on Land Use and to the appropriate Land Use subcommittees.

#### REPORTS OF THE STANDING COMMITTEES

##### Report of the Committee on Economic Development

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Economic Development and have been favorably reported for adoption.

Report for Res. No. 1936

**Report of the Committee on Economic Development in favor of approving a Resolution supporting New York City's application for funding for capital projects under the Restore New York Community Initiative pursuant to the New York State Urban Development Act, for Arverne East, in the borough of Queens, and Bush Terminal, in the Borough of Brooklyn.**

The Committee on Economic Development, to which was referred on April 22, 2009 the annexed resolution, respectfully

#### REPORTS:

##### I Introduction

On April 21, 2009, the Committee on Economic Development, chaired by Council Member Thomas White Jr., held a hearing on Preconsidered Res. No. 1936, a Resolution supporting New York City's application for funding for capital projects under the Restore New York Community Initiative pursuant to the New York State Urban Development Act, for Arverne East, in the borough of Queens, and Bush Terminal, in the borough of Brooklyn. (Preconsidered Res. No. 1936 is annexed).

##### II Background

The Restore New York's Communities Initiative (Restore New York), pursuant to the New York State Urban Development Act, encourages economic development and neighborhood growth by providing municipalities with financial assistance for revitalization of commercial and residential properties. The Empire State Development Corporation (ESDC) is the entity responsible for implementing this grant program. Cities, towns and villages across the State will be able to compete for funding to aid in the demolition, deconstruction, rehabilitation and/or reconstruction of vacant, abandoned, condemned and surplus properties.

Restore New York places a strong emphasis on projects in economically distressed communities. Applications for Round 3 financing under the Restore New York program are due May 4, 2009. In Round 3 the City of New York is eligible to submit two project proposals with a funding request of up to \$10 million each.

##### II Arverne East

One of the projects the City of New York is submitting for funding through Restore New York is located in the Arverne Urban Renewal Area (URA) in Queens Community Board 14. The Department of Housing Preservation and Development (HPD) is redeveloping portions of the Arverne URA located in the Rockaway Peninsula in Queens.

Once used as a beach resort for the affluent, the Victorian mansions at Arverne were replaced with bungalows that were accessible to the middle class in the 1930's and 1940's. As the bungalows' appeal declined, so did the environs, and the City eventually declared 308 acres of Arverne an Urban Renewal Area (URA). Although designated an URA in 1964 and cleared by the City in 1971, the vast majority of Arverne remains undeveloped.

The eastern section of the Arverne URA, bordered to the south by the Atlantic Ocean, currently consists of predominantly overgrown land with remnants of the former bungalow community. This swath of land is arguably one of the most underutilized brownfields in the City's inventory. Several past project proposals have failed to come to fruition, resulting in lost opportunity, instability, and economic distress for the surrounding areas.

The 2000 Census showed that for CB 14, the individual poverty rate of 19.14% was more than 130% of the state average, with an unemployment rate of 13.17%. Additionally, in 2007 one third of the CB 14 population received some form of income support (e.g.; Medicaid, Supplemental Security Income). The project site is also located within the Far Rockaway Empire Zone, on Block 15859, Lot 1; Block 15860, Lot 1; and Block 15861, Lot 1 on the south side of Edgemere Avenue between Beach 32<sup>nd</sup> and Beach 34<sup>th</sup> Street.

The City of New York is seeking funding for infrastructure, site work and the reconstruction of 103 2-family homes, each with an owner-occupied unit and a rental unit, as part of Arverne East Phase 1A, which has a total project budget of \$58 million. Construction of these first 206 dwelling units is expected to begin in fiscal year 2010. The developers are applying for New York State Affordable Housing Corporation (AHC) funds and will secure private bank financing with a commitment of \$9 million of equity (partially deferred) to the project.

Once completed, the homes will be offered through a lottery process to individuals/families in accordance with the New York State Affordable Housing Corporation (AHC) income restrictions and a Homeowners Association will be formed. The developers will receive a fixed-fee for developing the project in accordance with AHC and HPD requirements. A land lien and any city, state or other subsidy will be subordinated into an enforcement note and mortgage. Should the purchaser choose to sell or refinance within fifteen years, certain recapture/repayment restrictions would apply to the subordinate lien. In the first five years, the lien remains constant, and 100% of the profit or cash out of a refinancing goes towards paying off the lien. During years 6 through 15, the lien payment requirement decreases by 10% each year until it evaporates in year 15.

All environmental reviews necessary, including the Final Environmental Impact Statement, CEQR, and SHPO have all been completed. A preference toward utilizing Minority-and Women-owned businesses and local hiring will be given.

The project is part of a larger system of development, known as Arverne East, which consists of approximately 81.5 acres of land located between Beach 32<sup>nd</sup> and Beach 44<sup>th</sup> Streets. The Arverne East development advances the objectives of the local revitalization plan by restoring a portion of Arverne from Brownfield back into a vibrant beachfront community. As a critical component of the Mayor's New Housing Marketplace Plan, Arverne East will provide up to 1600 new dwelling units – most of which will be quality affordable housing. Arverne East will have up to 400,000 square feet of commercial space - including shops, restaurants, a supermarket, and entertainment opportunities. Retail users will be served by the two transit stations on site, as well as approximately 1000 public parking spaces. In addition to bringing retail opportunities to a community that has long been underserved, the commercial component will create approximately 2000 permanent jobs. The proposed vibrant, mixed-use neighborhood will also include a variety of community parks, community facilities, and a 35-acre beachfront preserve.

##### III Bush Terminal

The Bush Terminal Campus (the Campus) is located in Sunset Park, Brooklyn and is bounded by 41st Street, First Avenue, 52nd Street and the Gowanus Bay. It is part of an urban neighborhood with high economic stress. The Campus has played a role as a sanctuary for industrial businesses that have been forced out of higher priced locations such as Manhattan, Queens and other parts of Brooklyn. In addition, the Campus falls within several Federal, State and Local special zones that make it eligible for a variety of financial incentives. The Campus is a New York State Brownfield Opportunity Area and is located in a New York State Empire Zone, as well as a Federal New Market Tax Credit eligible area, and is part of the local South West Brooklyn Industrial Business Zone.

Since 2001 New York City Economic Development Corporation has directly managed the 10 properties totaling 1.2 million square feet on 32 acres of land. These properties support over 400 industrial-related jobs currently. The campus and buildings need significant investment in order to continue operating in the medium and long-term. Current rent levels are quite low. Operating expenses are artificially

high as a result of deferred maintenance resulting from the prior operator's lack of upkeep of these assets.

One of the City's key strategies at Bush Terminal is to provide modern industrial space that businesses need to be competitive in New York City. Buildings 39/40 and 45 are largely obsolete industrial buildings totaling 37,100 square feet. They are situated on a 130,000 square foot site (the Site) in the center of the Bush Terminal campus. The Site is zoned to accommodate 260,000 square feet of light industrial space which provides for an opportunity to bring a new modern industrial building to the campus.

Interest in the Site has been expressed by several large industrial owners/operators. The New York City Economic Development Corporation (EDC) is seeking \$10 million to demolish the existing underutilized buildings and contribute to the redevelopment of a new modern industrial building. These funds will be put toward the demolition of existing buildings, asbestos removal, and upgrades of power, water and sewer infrastructure and construction of the new building. The infrastructure upgrades are particularly critical to attract private industry to the site. Providing new development opportunities will further increase job density in the campus and foster growth of certain businesses that might have moved out of New York City due to unsuitable industrial real estate stock.

Accordingly, the Committee recommends its adoption.

**(The following is the text of Res. No. 1936:)**

Res. No. 1936

**Resolution supporting New York City's application for funding for capital projects under the Restore New York Community Initiative pursuant to the New York State Urban Development Act, for Arverne East, in the borough of Queens, and Bush Terminal, in the borough of Brooklyn.**

By Council Member White, Gonzalez, Liu, Weprin and Comrie.

**Whereas**, The 2006-07 New York State Budget enacted the Restore New York's Communities Initiative (Restore NY), which is implemented by the New York State Empire State Development Corporation (ESDC) and intended to provide funding for capital projects under the New York State Urban Development Corporation Act; and

**Whereas**, Under Round 3 of Restore NY funding, New York City is permitted to submit applications for the funding of two capital projects, receiving up to \$10 million per project; and

**Whereas**, New York City has submitted a notice of intent to apply to ESDC for funding Arverne East, in the borough of Queens, and Bush Terminal, in the borough of Brooklyn; and

**Whereas**, \$10 million is being sought by New York City in connection with the site for infrastructure, site work and reconstruction of 103 2-family homes, each with an owner-occupied unit and a rental unit, as part of Arverne East Phase 1A; and

**Whereas**, Arverne East Phase 1A is located on portions of Blocks 15859, 15860, and 15861, located on the Rockaway Peninsula, in Queens; and

**Whereas**, Arverne East Phase 1A will be developed within and in accordance with the Arverne Urban Area/Plan (URA/URP) and is located in a New York State Empire Zone; and

**Whereas**, The first 206 dwelling units are expected to begin construction in fiscal year 2010; and

**Whereas**, Arverne East Phase 1A has a total projected budget of \$55 million, and the developers, Arverne East (a joint-venture), are applying for Affordable Housing Corporation Funds, and will secure private bank financing, and will commit owner equity to the project; and

**Whereas**, Once completed, the homes will be offered through a lottery process to individuals and families as affordable in accordance with the New York State Affordable Housing Corporation income restrictions and a Homeowners Association will be formed; and

**Whereas**, The Bush Terminal Industrial Campus (The Campus) is located in Sunset Park, Brooklyn, and bounded by 41<sup>st</sup> Street, First Avenue, 52<sup>nd</sup> Street, and the Gowanus Bay; and

**Whereas**, The Campus has played a role as a sanctuary for industrial businesses that have been forced out of higher priced locations; and

**Whereas**, The Campus falls within several federal, state, and local zones that make it eligible for a variety of financial incentives; and

**Whereas**, The Campus is in New York State Brownfield Opportunity Area and is located in a New York State Empire Zone, and is in Federal New Market Tax Credit eligible area, as well as part of the local South West Brooklyn Industrial Business Zone; and

**Whereas**, Since 2001, the New York City Economic Development Corporation has directly managed the 10 properties within the Campus totaling 1.2 million square feet on 32 acres of land; and

**Whereas**, These properties currently support almost 600 industrial-related jobs; and

**Whereas**, Buildings 39/40 and 45 are largely obsolete industrial buildings totaling 37,100 square feet; and

**Whereas**, Buildings 39/40, and 45 are situated on a 130,000 square foot site in the center of the Campus (the Site); and

**Whereas**, The Site is zoned to accommodate 260,000 square feet of light industrial space, which provides an opportunity to bring a new modern industrial building to the campus; and

**Whereas**, \$10 million is being sought by New York City in connection with the Site, and the funds will be put towards the demolition of existing buildings and asbestos removal, as well as upgrades of power, water, and sewer infrastructure and construction of a new building at the Site; and

**Whereas**, The Council finds that the proposed Arverne East and Bush Terminal projects are consistent with New York City's long-term sustainability plan (known as "PlaNYC") and with the City's Zoning Resolution, and, in addition, the Arverne East project is consistent with the Arverne Urban Renewal Plan, and the Bush Terminal Site project is consistent with the New York City Industrial Policy and the City's Waterfront Revitalization Plan; and

**Whereas**, The Council finds that the proposed financing is appropriate for the Arverne East and Bush Terminal projects; and

**Whereas**, The Council finds the Arverne East and Bush Terminal projects facilitate effective and efficient use of existing and future public resources so as to promote both economic development and the preservation of community resources; and

**Whereas**, The Council also finds that the Arverne East and Bush Terminal projects develop and enhance infrastructure and other facilities in a manner that will attract, create, and sustain employment opportunities; now, therefore, be it

**Resolved**, That the Council of the City of New York supports New York City's application for funding for capital projects under the Restore New York Community Initiative pursuant to the New York State Urban Development Act, for Arverne East, in the borough of Queens, and Bush Terminal, in the borough of Brooklyn.

THOMAS WHITE JR., Chairperson; ALBERT VANN, DAVID I. WEPRIN, LETITIA JAMES, ANNABEL PALMA, KENNETH C. MITCHELL, Committee on Economic Development, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

#### Reports of the Committee on Environmental Protection

Report for Int. No. 21-A

**Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the New York city charter and the administrative code of New York, in relation to developing a comprehensive program for the remediation and reuse of brownfields.**

The Committee on Environmental Protection, to which was referred on February 1, 2006 (Minutes, page 223) the annexed amended proposed local law, respectfully

#### REPORTS:

##### I. Introduction

On Tuesday, April 21, 2009 at 1:00 p.m., the Committee on Environmental Protection will hold an oversight hearing that relates to New York City's proposed Local Brownfields Law. Invited to testify are Acting Commissioner Steven Lawitts of the New York City Department of Environmental Protection, Suzanne Mattei, Regional Director of the New York State Department of Environmental Conservation, George Pavlou, Acting Regional Administrator of the United States Environmental Protection Agency (EPA), Region 2, Laura Haight of NYPIRG, Deborah Goldberg of the Earth Justice, Eric Goldstien of the Natural Resources Defense Council, Jody Kass and Mathy Stanislaus of New Partners for Community Revitalization and many others.



## II. Background

A brownfield site is commonly considered to be any real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous waste, petroleum, pollutant, or contaminant.<sup>1</sup> Such sites exist in nearly every community in New York State. In New York City, the Office of Environmental Coordination (OEC) has coordinated the City's official brownfields efforts and develops brownfields policy" by "assist[ing] City agencies with brownfields issues generally, helping with community involvement, state/federal agency interactions, investigation, remediation, and end-use planning issues. OEC also facilitated the City's participation in state and federal grant programs, provides information and assistance to community and business groups working on brownfields redevelopment, and represents the public sector on the executive committee of the New York State Chapter of the National Brownfields Association."<sup>2</sup>

Finally OEC coordinated with not-for-profit community groups dedicated to promoting community revitalization to apply for Brownfield Opportunity Area (BOA) grants, either as a participant or as a recommender. These grants, established by the 2003 state Brownfields Law, allow community groups, in conjunction with or with the support of the City, to plan for redevelopment of areas with multiple brownfields sites.<sup>3</sup>

The presence of brownfields in New York City is a major policy concern because brownfields can blight neighborhoods, depress land values, and threaten public health and the environment. According to PlaNYC, as many as 7,600 acres of land in the City may be contaminated.<sup>4</sup> Depending on the level of contamination, and the potential for exposure to the contaminants, these sites may pose serious health threats, and because the contamination or potential contamination can discourage reuse, the City loses vast amounts of potential tax revenues.<sup>5</sup> In short, "[l]eft untouched, brownfields pose environmental, legal and financial burdens on a community and its taxpayers. However, after cleanup, these sites can again become the powerful engines for economic vitality, jobs and community pride that they once were."<sup>6</sup>

With the introduction of PlaNYC in April 2007, New York City contemplated taking the next step in the city's brownfield cleanup initiatives. That plan included the creation of a new Office of Environmental Remediation (OER), to be housed in the Mayor's Office of Operations and a new city-run brownfield cleanup program. This new office was established in June, 2008.

## III. Federal Brownfields Programs

As part of its mission to protect human health and the environment, the EPA is dedicated to revitalizing all types of contaminated land to productive economic and green space use.<sup>7</sup> The EPA's brownfields program is built upon four basic goals and principles: "protecting the environment, partnering for success, stimulating the marketplace, and promoting sustainable reuse."<sup>8</sup> To achieve these goals EPA supports such things as training, research, and technical assistance, as well as provides the knowledge and skills needed for a successful brownfields program to state and local governments and other non-federal stakeholders.

The Small Business Liability Relief and Brownfields Revitalization Act, signed into law on January 11, 2002, expanded the federal government's funding for assistance in brownfields-related training, research, and technical assistance. Eligible entities may apply for brownfields training, research, and technical assistance grants (under §104(k)(6) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA or Superfund), 42 U.S.C. 9604(k)(6)), and EPA awards such grants based on a number of environmental, health, and financial criteria, as well as the ability of the applicant to properly manage the grant money.<sup>9</sup>

Additional EPA brownfields programs include: The State and Tribal Response Programs, which provides noncompetitive grants to establish and enhance state and tribal response programs, and The Brownfields Economic Redevelopment Initiative, which provides New Yorkers with funding, technical assistance and resources to clean up brownfields.<sup>10</sup>

Finally the EPA administers a "One Cleanup Program" initiative that supports state brownfields programs that meet a minimum set of criteria by entering into Memoranda of Agreement with states administering EPA approved programs to refrain from exercising its cost recovery authority or from undertaking any removal or remedial action at sites addressed by the states with approved programs. New York State's Voluntary Cleanup Program and New York State's Brownfield

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<sup>1</sup> State of New York, Environmental Conservation Law (ECL), Section 27-1405, (2).

<sup>2</sup> City of New York, Mayor's Office of Environmental Coordination (MOEC) web site, brownfields information, FAQs and links, at <http://www.nyc.gov/html/oec/html/brown/brownfaq.shtml>.

<sup>3</sup> Id.

<sup>4</sup> PlaNYC, Brownfields: Clean Up All Contaminated Land in New York City, p. 41.

<sup>5</sup> New York City Independent Budget Office, Fiscal Brief, "Will New State Law Help Reclaim New York's Brownfields?," December 2003, pp. 1-2.

<sup>6</sup> New York State Department of Environmental Conservation, Brownfields – Transform the Past - Build for the Future, 2003, p. 3 at <http://www.dec.ny.gov/chemical/brownfields.html>

<sup>7</sup> U.S. Environmental Protection Agency, Brownfields Cleanup and Redevelopment, Basic Information, at <http://www.epa.gov/brownfields>, p. 1.

<sup>8</sup> U.S. Environmental Protection Agency, Brownfields Cleanup and Redevelopment, Brownfields Training, Research, and Technical Assistance Grants and Cooperative Agreements Program, at <http://www.epa.gov/brownfields/mission.htm>.

<sup>9</sup> Id.

<sup>10</sup> New York State Department of Environmental Conservation, Brownfields – Transform the Past Build for the Future, 2003, p. 8 at <http://www.dec.state.ny.us/website/der/bfield/>.

Cleanup Program have never met the criteria for an approvable Voluntary Cleanup or Brownfield Cleanup Program and no Brownfield Cleanup MOA exists between EPA and the State of New York where the federal government agrees to waive its remedial authority or issue liability waivers.

## IV. New York State Brownfields Programs

In 1994, an administrative Voluntary Cleanup Program (VCP) was established in New York State for brownfields. The VCP utilized a cooperative approach that included the DEC, the New York State Department of Health, and volunteer landowners. The involved entities signed a Volunteer Cleanup Agreement (VCA) and developed plans to investigate and, if necessary, remediate the site to an appropriate degree to protect public health and the environment based on the planned future use of the site. New York City is home to 51 of the 332 total VCP agreements entered into by DEC.<sup>11</sup> The Brownfields Law of 2003 replaced the Voluntary Cleanup Program but the existing Voluntary Cleanup Program Agreements remain in effect.

As a strong signal of its commitment to addressing the issue of brownfields, in September 2003, New York State enacted the Superfund/Brownfield Law. The law created a Brownfield Cleanup Program ("BCP") to replace the Voluntary Cleanup Program mentioned above.<sup>12</sup> The BCP, codified as new Article 14 of Title 27 of the Environmental Conservation Law, was formed to encourage the voluntary remediation of brownfields and "to address the environmental, legal, and financial barriers that often hinder the redevelopment and reuse of contaminated properties. . . ."<sup>13</sup> Subsequent to original passage, the State legislature passed a bill containing "technical corrections" to the initial brownfields law, which the Governor signed on October 5, 2004.

The goal of the BCP is to "remediate the site to a level that is protective of public health and the environment; taking into account the current, intended, and reasonably anticipated future use of the site."<sup>14</sup> Prior to the enactment of the Superfund/Brownfield Law, the DEC remediated brownfields through the VCP which is the model for the BCP, but which had no legislative statutory authority or regulations, causing uncertainties that, along with Superfund's liability scheme, discouraged brownfields redevelopment. The BCP seeks to remove these barriers in order to facilitate a faster, more efficient, and more inclusive process for transforming brownfields into productive community assets. To do so BCP utilizes such tools as tax incentives and technical assistance grants of up to \$50,000 per site to help encourage community involvement in cleaning brownfields.<sup>15</sup>

The DEC may sign a BCP agreement with either of two types of parties—"participants" or "volunteers." Participants are individuals or entities directly responsible for contamination on a site, while "volunteers," are individuals or entities who purchase a property after it has been contaminated, are not. With exceptions, eligible sites include "any real property, the redevelopment or reuse of which may be complicated by the presence or potential presence of a hazardous waste, petroleum, pollutant, or contaminant . . . ."<sup>16</sup>

The DEC requires that an applicant enter into a "brownfields cleanup agreement" (BCA) with the agency, committing the applicant to an investigation and, if necessary, remediation, of the site under DEC's oversight.<sup>17</sup> The results of the investigation and the proposed future uses of the site determine, to a large degree, what will be done and how and when. Those determinations are memorialized in an agreement. The agreement addresses, among other things, preparation and submission of investigation work plans, a citizen participation plan, and payment of DEC oversight costs. If an investigation shows that remediation is needed, a remediation work plan is developed. The BCP incorporates a multi-track approach to clean-ups that is dependent upon the proposed use of the site.

Based upon a review of a Final Engineering Report, typically prepared by the applicant, if the DEC determines that the remediation requirements have been or will be achieved through a work plan, the agency issues a "certificate of completion" (COC), pursuant to which the applicant, any successors or assignees, is released from liability to the State for hazardous waste or petroleum at or emanating from the site. However, the COC also contains "reopeners" that provide for its modification or revocation for "good cause" or where noncompliance with the BCA or misrepresentation has occurred. In addition, the COC triggers the potential tax credits offered pursuant to the BCP. Opportunities for public comment and participation exist throughout the BCP process, including during the period before the DEC approves the proposed remedial investigation report, finalizes the proposed remedial work plan and approves the final engineering report.

In addition to establishing the BCP, the Superfund/Brownfield Law refinances the State's superfund program and amends the Bond Act by increasing state reimbursements from 75% of eligible costs to 90% of such on-site costs and 100%

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<sup>11</sup> New York City Independent Budget Office, Fiscal Brief, "Will New State Law Help Reclaim New York's Brownfields?," December 2003, p. 5.

<sup>12</sup> ECL §§ 27-1401 et seq.

<sup>13</sup> New York State Department of Environmental Conservation, Division of Environmental Remediation, "Draft Brownfield Cleanup Program Guide", May 2004, p. 4.

<sup>14</sup> Draft Brownfield Cleanup Program Guide, at 5.

<sup>15</sup> Desnoyers, Dale and Schnapf, Larry, "Environmental Remediation Process is Undergoing Sweeping Changes Mandated by New Brownfields Law", *New York State Bar Association Journal*, Vol. 76, No. 8, October 2004, p. 22.

<sup>16</sup> <http://www.dec.ny.gov/chemical/8648.html> Sites excluded from the program, however, include certain sites on the State Registry of Inactive Hazardous Waste Disposal Sites, sites on the EPA National Priorities List, hazardous waste treatment, storage or disposal facilities permitted under ECL § 27-0901, certain sites regarding the release of petroleum subject to a cleanup order pursuant to the Navigation Law or Title 10 of Article 17 of the ECL and sites subject to any on-going State or federal enforcement action regarding solid/hazardous waste or petroleum. Id.

<sup>17</sup> Id.

of such off-site costs, allows municipalities to keep profits from the sale of remediated brownfields, and expands the definition of municipality to include community groups working in conjunction with a municipality.<sup>18</sup> The Superfund/Brownfield Law, passed in 2003, increased the use of Bond Act funding for the investigation and remediation of municipal brownfields.

There are also brownfield remediation projects in which the private sector is currently involved. Examples include sites that are investigated and/or remediated for purely private development; projects from the City's "New Marketplace" housing plan, announced in December of 2002, under which the City's Department of Housing Preservation and Development will provide \$200 million in loans through the year 2009 to private developers building certain types of affordable housing, and projects developed using the New York Metro Brownfields Redevelopment Fund, a revolving loan fund that uses public financing to spur private investment in brownfields investigation and remediation.

#### V. Brownfields and Superfund Cleanup Standards

Cleanup standards and whether they are sufficiently protective has been a significant and thorny issue in brownfield remediation for many years<sup>19</sup> and is, arguably, one of the most important issues about which people may disagree. A number of scientists that reviewed the soil cleanup objectives promulgated in the regulations implementing the state Superfund law agreed at the public hearing that the cleanup standards are inadequate. They commented that the soil clean up standards underestimate potential risk, miss pathways of exposure, fail to protect aquatic resources and fail to consider the additive and synergistic effect of multiple pathways of exposure.<sup>20</sup> However, the State prevailed in a lawsuit that challenged the regulations filed by the Citizens Environmental Coalition, the Sierra Club, New York Public Interest Research Group and Environmental Advocates of New York on the ground that they are inconsistent with the Superfund/Brownfields Law and fail to protect the public and the environment.<sup>21</sup>

When contamination is left on site with a clean fill cover, soil vapor intrusion into structures is possible. "Vapor intrusion", defined as the migration of vapors into a building from a subsurface source of soil or groundwater contamination, has also emerged as a potential impediment to an adequate brownfield/superfund cleanup.<sup>22</sup> While the effects of vapor intrusion from radon and methane are well known, awareness of adverse health impacts from vapor intrusion due to the presence of volatile organic compounds is relatively recent.<sup>23</sup> Vapor intrusion is a "potential concern anywhere soil or groundwater, contaminated by VOCs that are toxic to human health, is near buildings or where buildings will be constructed."<sup>24</sup> According to Ken Kamlet, Director of Legal Affairs at Newman Development, LLC, "there is a potential negative impact when developers do everything that they are supposed to do...and then two, five or ten years later DEC or DOH comes back saying vapor intrusion is a bigger concern..."<sup>25</sup> Based upon a recent policy statement, all New York State sites previously closed prior to January 1, 2003, are subject to being revisited and reopened under a draft policy entitled "Evaluating the Potential for Vapor Intrusion at Past, Current and Future Sites."<sup>26</sup> The vapor intrusion pathway of exposure is also very problematic because it was not taken into consideration by DEC when establishing soil cleanup standards.<sup>27</sup>

Remediation standards at brownfields sites are a serious matter for all New Yorkers because many brownfields redevelopments in urban areas are for housing. According to a 2006 United Conference of Mayor's Survey housing accounted for more than 14,000 buildings on brownfields sites in comparison to a little less than

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<sup>18</sup> New York State Department of Environmental Conservation, at <http://www.dec.gov/chemical/45734.html>.

<sup>19</sup> Frona M. Powell, Amending CERCLA to Encourage the Redevelopment of Brownfields: Articles, Issues, Concerns and Recommendations, 53 Wash. U. J. Urb. & Contemporary Law 113, 132, (1998) (stating that because future use of brownfields will often occur in areas surrounded by urban neighborhoods, there is concern that lowering brownfield cleanup standards will ultimately affect the health and environment of those who reside in the vicinity of those sites); David A. Dana, State Brownfields Programs as Laboratories of Democracy? 14 N.Y.U. Envtl. L. J. 86, at p. 93, 94 (2005) (arguing that a deficient brownfields cleanup may increase the number of people exposed to contamination where previously there was little contact between the site and human beings); Lynn Singband, Brownfield Redevelopment Legislation: Too Little, But Never Too Late 14 Fordham Envtl. Law J. 313, at p. 331, 33 (2003) (noting that any mistakes in the [cleanup level] decision will be borne by the community through health risks and potential costs of cleanup if the standard is deemed inadequate in the future).

<sup>20</sup> Anthony Hay, Associate Professor of Soil Ecotoxicology, Cornell University, agh5@cornell.edu, What Effect Would Including Soil Vapor Intrusion Have on the NYSDEC Proposed Brownfields Regulations Soil Clean-up Objectives (SCOs)? February 2006; M.B. McBride, Professor, Dept. of Crop and Soil Services, Cornell University, mbn7@Cornell.edu, Comments on Metal Pollutant Standards in the New York State Department of Environmental Conservation Proposed Brownfield Regulations Soil Clean Up Objectives (2006); Brian K. Richards, Department of Biological and Environmental Engineering, Cornell University, The Groundwater Quality Implications of the Proposed Soil Cleanup Standards for Brownfields (February 2006); Ellen Z. Harrison, Director, Cornell Waste Management Institute, Cornell University, Public Hearing Testimony to New York State Department of Environmental Conservation on the Proposed Brownfield Regulations Soil Cleanup Objectives (March 2006).

<sup>21</sup> <http://climateofourfuture.org/judge-hears-new-york-brownfield-cleanup-case/> (December 21, 2007).

<sup>22</sup> Frank T. Stanin, P.G., C.H.G., C.E.G., Vapor Intrusion: Breaking Through the Roadblock to Progress, American Bar Association, Superfund and Natural Resource Damages Litigation Committee Newsletter, (March 2006).

<sup>23</sup> Id.

<sup>24</sup> Id.

<sup>25</sup> Id. at p. 4.

<sup>26</sup> Id. (Policy dated March 8, 2005).

<sup>27</sup> See Thomas DiNapoli Comments, supra at p. 24.; See also Comments of Associate Professor Anthony Hay, supra (noting that vapor intrusion may be a sensitive exposure pathway that should be considered in establishing soil cleanup objectives).

4,000 developments on mixed-use sites, 520 for commercial use, 422 parks and 1,265 others including schools and industrial facilities.<sup>28</sup>

A review of the fifty-six brownfield sites deemed complete by DEC statewide revealed that fourteen of the fifteen brownfield cleanup sites approved for "restricted residential use", (meaning that housing was built on the sites without complete cleanups and that include easements for the sites that prohibit things like gardening), were located in New York City or Westchester County. Other limitations imposed at restricted use residential sites prohibit the use of groundwater without treatment. Construction related restrictions are also imposed that prohibit future soil disturbances except in accordance with an approved site management plan.

When a redeveloped property is designated as being for "restricted residential use" a deed is notation filed with the County Clerk's Office and is the only notice that contamination remains on site after a cleanup, but many of the redeveloped properties are marketed as rental units and deed notations are unlikely to provide notice to potential renters. Only one "restricted residential use" cleanup was approved by DEC in upstate New York.

#### VI. Where Do We Go From Here?

As noted earlier, the 2003 Brownfield/Superfund law contained eligibility requirements that exclude many New York City sites from participation in the brownfield program because they are contaminated by an off-site source or contaminated with fill material.<sup>29</sup> Gaps in the program allow developers to bring polluted surface soils to sites.<sup>30</sup> Policies that would have allowed site background levels to determine soil cleanup objectives<sup>31</sup> were overturned in the lawsuit challenging the regulations discussed earlier, but, the regulations still do not factor the protection of surface water into the calculated soil cleanup objectives or extend the protection of ecological resources to aquatic environments.<sup>32</sup> With 565 miles of shorelines, New York City has a reason to be concerned about surface water and aquatic environment protection.

Some critics of New York State 2003 Brownfield law and others who are not generally critics of the BCP law call for the creation of a city program that will address New York City's unique issues.<sup>33</sup> Proposals to improve brownfields cleanup in New York City include on-site testing and analyzing test results, to streamline the cleanup process and creating a database of historic uses.<sup>34</sup>

Some professionals in this area believe that brownfields legislation could benefit from a coordinated public health and community based planning approach to brownfields redevelopment.<sup>35</sup> Currently local environmental health data and information is not used to inform local environmental health policy, but this is one of the reasons why a local, citywide brownfields remediation program would make sense. Better environmental health tracking information from the New York City Department of Health and Mental Hygiene can aid in plans for future land use and analyzing the appropriateness of institutional controls.<sup>36</sup> In response to some of these issues, the Office of Environmental Remediation has proposed a local law to amend the New York city charter and the administrative code of the city of New York, in relation to establishing an office of environmental remediation and a local brownfield cleanup program local brownfields remediation law.

Proposed Int. No. 21-A: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to developing a comprehensive program for the remediation and reuse of brownfields.

Proposed Int. No. 21-A, called the "New York City Brownfield and Community Revitalization Act," modifies the New York City Charter by creating the Office of Environmental Remediation (OER) within the Mayor's Office of Operations

Section 1 names this bill the "New York City Brownfield and Community Revitalization Act."

Section 2 amends Section 15 of the New York City Charter, adding a Director of Environmental Remediation, to be appointed by the Mayor, who will head the Office of Environmental Remediation within the Mayor's Office of Operations. The Director is charged with establishing, in consultation with other City agencies, City policy regarding the identification, investigation, remediation, and redevelopment of brownfields. The Director is further charged with a variety of other duties, including developing programs for sustainable growth, identifying and cataloguing brownfields with a focus on projects that are consistent with brownfield opportunity area plans and on communities that (i) contain a disproportionate number of brownfield sites, (ii) show indicators of economic distress, including low resident incomes, high unemployment, high commercial vacancy rates and depressed property values, or (iii) contain brownfield sites that present strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities, developing and administering a local brownfield cleanup program, promoting and supporting community participation in brownfield redevelopment,

for the Lower Ma—

<sup>28</sup> Gowanus Lounge Blogspot:Roebing Oil Building Watch (August 2007) <http://www.http://abrooklynlife.com/gowanus/2007/08>

<sup>29</sup> Cleaning Up: Fixing New York's Broken Brownfield Cleanup Program, supra, at p. 3.

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Id. (citing DEC October 2006 Response to Comments).

<sup>33</sup> Planyc: A Greener, Greater New York, Brownfields Clean Up All Contaminated Land in New York City (2006).

<sup>34</sup> Id.

<sup>35</sup> Jill S. Litt, Nga L. Tran and Thomas Burke, Examining Urban Brownfields through the Public Health "Macroscopic", Environmental Health Perspectives, Volume 110, Supplement 2 (April 2002).

<sup>36</sup> Id. at p. 192.

educating community groups about brownfield redevelopment, acting as an intermediary between City agencies and other entities, including State agencies, applying for funds to support brownfield redevelopment, and administering the E-Designation program, as defined in section 11-15 of the Zoning Resolution of the City of New York. E-Designation requires that properties undergo some environmental testing and, possibly, remediation, before new construction or a change in use occurs on the property. Currently, the Department of Environmental Protection administers this program.

Section 3 of the Act adds a new section 1404 to Chapter 57 of the New York City Charter, establishing an Office of Environmental Remediation within the Department of Environmental Protection, also to be headed by the Director of Environmental Remediation, and specifying that the office shall exercise such powers and duties as the director shall determine, including the administration of the E-Designation program.

Section 4 of the Act amends Title 24 of the Administrative Code of the City of New York by adding a new Chapter 9. New section 24-901 titles this chapter the "New York City Local Brownfield Cleanup Law." New section 24-902 defines terms used in the chapter. Of particular importance is the definition of a "local brownfield site." The definition includes properties whose redevelopment or reuse is complicated by the presence of light to moderate contamination. Excluded from the definition are properties containing discharges of petroleum except as authorized by the DEC, properties registered as inactive hazardous waste disposal sites and presenting immediate risks to public health, properties on the "National Priorities List" pursuant to 42 U.S.C section 9605 (sometimes referred to as the "Superfund List"), properties subject to enforcement action under the State Environmental Conservation Law, or properties subject to any other on-going City, State, or Federal enforcement action related to the contamination.

New section 24-903 charges the Director with developing and administering the Local Brownfield Cleanup Program (LBCP), and with promulgating rules. Such rules shall prescribe the application form, fees, reporting requirements, and procedures for participation in the program. Rules shall prescribe a local brownfield cleanup agreement to be signed by enrollees, detail requirements for remedial investigation reports and action plans (along with procedures for submittal and review of these plans), prescribe procedures for citizen participation, and provide for access by OER or its designee to enrolled property for the purpose of ensuring compliance with the cleanup agreement.

New section 24-904 sets the conditions of eligibility for participation in the LBCP. The property shall not be eligible if it does not meet the definition of a site described in 24-902, if any court action relating to the site's contamination is pending against the applicant, if there is an order against the applicant related to the contamination on the property, or if the OER determines that the public interest would not be served by accepting the application.

New section 24-905 provides opportunities for citizen participation by requiring that the appropriate Borough President, the local Council Member, the local community board, residents living on or immediately adjacent to the brownfield site, community based organizations, and other appropriate community groups be notified by OER when that office receives an application to participate in the LBCP, before OER finalizes a remedial action work plan or approves a report on remedial action and before construction is commenced at the brownfield site. OER is also required to provide public comment and for access to documents.

New section 24-906 provides for the issuance of a Certificate of Completion to be issued at the successful completion of the program. The certificate will state that the enrollee has successfully completed the program, that the City of New York will not take or require further investigatory or remedial action regarding the contamination addressed, except as various documents such as the remedial action work plan, site management plan, declaration of covenants and restrictions otherwise provide, and that the City of New York recommends that no other governmental entity take or require such action. The Director will seek to enter into agreements with Federal and/or State agencies and other entities stipulating that those entities do not intend to take or require further action from properties holding a Certificate of Completion. The City, however, reserves its rights regarding further investigation and remediation in the case of continuing contamination, non-compliance with the terms of the agreement, fraud, changes in environmental standards or changes in use.

New section 24-907 provides that applicants, enrollees, and recipients of Certificates of Completion who misrepresent facts related to the investigation, remediation, or site management of local brownfield sites shall be subject to civil penalties of up to twenty-five thousand dollars.

New section 24-908 directs the Department of Buildings to withhold permits for any local brownfield site wherein OER has determined that the owner has failed to continue in full force and effect all institutional and engineering controls required.

Section 5 of the Act states that the local law shall take effect immediately.

**VII. Conclusion**

As New York City moves towards greater sustainability, the quality of our brownfields redevelopment will play a large role in preserving our vast human and natural resources. By using our previously developed lands, we preserve natural lands. By ensuring that brownfields are developed in a manner that is protective of public health, we preserve the health and safety of our City. Today's hearing will focus on how New York City can ensure that its brownfields are developed sustainably.

(The following is from the text of the Fiscal Impact Statement for Int. No. 21-A:)

**FISCAL IMPACT STATEMENT:**

	Effective FY 09	FY Succeeding Effective FY 10	Full Fiscal Impact FY 09
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$1,185,827	\$1,185,827	\$966,846
Net	\$1,185,827	\$1,185,827	\$966,846

**IMPACT ON REVENUES:** There would be no impact on revenues resulting from the enactment of this legislation.

**IMPACT ON EXPENDITURES:** The Office of Environmental Remediation has a Personal Services budget of \$1,185,827 for Fiscal Year 2009 which funds a headcount of 16 and is carried forward into Fiscal Year 2010. The office has an Other Than Personal Services (OTPS) budget of \$77,476 for Fiscal Year 2009 and no OTPS budget in Fiscal Year 2010.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** General Fund

**SOURCE OF INFORMATION:** Mayor's Office of Operations and the City Council Finance Division

**ESTIMATE PREPARED BY:** Jonathan Rosenberg, Deputy Director  
Nathan Toth, Assistant Director

**HISTORY:** This legislation was introduced as Int. 21 by the Full Council and referred to the Committee on Environmental Protection on February 1, 2006. The Committee on Environmental Protection held a hearing on Int. 21 and laid over the legislation on May 9, 2006. An amendment has been proposed and the committee will reconsider the legislation as Proposed Int. 21-A on April 21, 2009.

(For text of related legislation, please see the Report of the Committee on Environmental Protection for Res No. 1928 printed in these Minutes).

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 21-A:)

Int. No. 21-A

By Council Members Gennaro, Avella, Brewer, Fidler, Foster, Gentile, James, Liu, Mark-Viverito, Martinez, Nelson, Recchia, Sanders, Sears, Weprin, White, Mendez, Yassky, Koppell, Vallone Jr., Lappin, Gonzalez, Eugene, Jackson, Dickens, Garodnick and Mitchell (in conjunction with the Mayor).

**A Local Law to amend the New York city charter and the administrative code of New York, in relation to developing a comprehensive program for the remediation and reuse of brownfields.**

*Be it enacted by the Council as follows:*

Section 1. This local law shall be known as the "New York city brownfield and community revitalization act".

§2. Section 15 of the New York city charter is amended by adding a new subdivision e to read as follows:

*e. There shall be a director of environmental remediation within the office of operations. The director, who shall be appointed by the mayor, shall head the office of environmental remediation and shall have the power and the duty to:*

*1. in consultation with other city agencies and officials, including the department of health and mental hygiene, as appropriate, plan, establish, coordinate, and oversee city policy regarding the identification, investigation, remediation, and redevelopment of brownfields that is protective of public health and the environment, and supportive of the city's economic development;*

*2. develop programs for sustainable growth in consultation with the office of long-term planning and sustainability. Such programs shall focus on projects that are consistent with brownfield opportunity area plans and on communities that (i) contain a disproportionate number of brownfield sites, (ii) show indicators of economic distress, including low resident incomes, high unemployment, high commercial vacancy rates and depressed property values, or (iii) contain brownfield sites that present strategic opportunities to stimulate*

economic development, community revitalization or the siting of public amenities.

3. identify and catalogue brownfields and potential brownfields;

4. develop and administer a local brownfield cleanup program to facilitate the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

5. develop and administer financial and other incentive programs to encourage public or private entities to identify, investigate, remediate, and redevelop brownfields in support of the city's economic development. The financial incentive program shall give priority to projects that are consistent with brownfield opportunity area plans;

6. promote community participation and community assistance, and provide technical support for community participation, in the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

7. educate and train community groups, developers, and property owners about the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

8. act as intermediary for city agencies and officials, as appropriate, for brownfield matters, including with respect to the state brownfield opportunity area program. The office shall facilitate interactions among city agencies, community based organizations, developers, and environmental experts and assist community based organizations in brownfield redevelopment.

9. support the efforts of community groups, developers, and property owners to obtain and utilize federal, state, and private incentives to identify, investigate, remediate, and redevelop brownfields;

10. coordinate, partner, and enter into agreements with federal and state agencies and officials and other entities in connection with the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development. Such agreements may include a pledge by a federal or state agency or official that no further action may be taken against a local brownfield site that has been issued a certificate of completion pursuant to chapter nine of title twenty-four of the administrative code;

11. apply for and administer funds for the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

12. advise city agencies and officials regarding the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

13. evaluate and report publicly on progress in the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

14. take such other actions as may be necessary to facilitate the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development, including the review and acceptance of remedial plans for brownfield redevelopment projects such as city-sponsored affordable housing projects;

15. administer the E-Designation program, as defined in section 11-15 of the zoning resolution of the city of New York, acting as successor to the department of environmental protection for such purpose;

16. ensure compliance with hazardous waste restrictive declarations arising from the environmental review of land use actions, acting as successor to the department of environmental protection for such purpose;

17. establish fees for programs administered by the office; and

18. promulgate such rules as are necessary to implement the provisions of this subdivision.

§3. Chapter 57 of the New York city charter is amended by adding a new section 1404 to read as follows:

§1404. Office of environmental remediation. There shall be an office of environmental remediation within the department. The office shall be headed by the director of the office of environmental remediation in accordance with subdivision e of section fifteen of the New York city charter. The office shall exercise such powers and duties as the director shall determine, including, but not limited to, the power and duty to administer the E-Designation program, as defined in section 11-15 of the zoning resolution of the city of New York.

§4. Title 24 of the administrative code of the city of New York is amended by adding a new chapter 9 to read as follows:

Chapter 9

Local Brownfield Cleanup Program

§ 24-901 Short Title.

§ 24-902 Definitions.

§ 24-903 Rules for the Local Brownfield Cleanup Program.

§ 24-904 Eligibility.

§ 24-905 Citizen Participation.

§ 24-906 Certificate of Completion.

§ 24-907 Civil Penalties. § 24-908 Withholding of permits.

§24-901 Short Title. This chapter shall be known and may be cited as the "New York city local brownfield cleanup law".

§24-902 Definitions. For the purposes of this chapter the following terms shall mean:

"Applicant" shall mean a person who has submitted a request to participate in the local brownfield cleanup program but is not yet an enrollee.

"Certificate of completion" shall mean a written certificate that is issued by the office to an enrollee who has successfully investigated and remediated a local brownfield site to the satisfaction of the office.

"Change of use" shall mean the transfer of title to all or part of a local brownfield site, change in management of a local brownfield site, the erection of any structure on the site, the creation of a park or other public or private recreational facility on the site, or any activity that is likely to disrupt or expose contamination or to increase direct human exposure to contamination; or any other conduct that will or may tend to significantly interfere with an ongoing or completed remedial program at such site and the continued ability to implement the engineering and institutional controls associated with such site.

"Community based organization" shall mean a community based organization as defined in section 970-r of the general municipal law.

"Contaminant" shall mean hazardous waste and/or petroleum.

"Contamination" or "contaminated" shall mean the presence of a contaminant in any environmental media, including soil, surface water, groundwater, air, or indoor air.

"Declaration of covenants and restrictions" shall mean controls on the use of a site that are listed on the deed and that seek to prevent potential exposure to any residual contamination remaining at the site.

"Delegated brownfield site" shall mean any real property for which state or federal law requires the investigation or remediation, or a portion of an investigation or remediation, to be supervised and/or approved by a state and/or federal agency, but where such state and/or federal agency has expressly authorized in writing that such real property may be investigated and remediated under the city's supervision or according to a mutually agreed-upon form of supervised oversight, subject to any and all appropriate restrictions as may be required by law or agreed to by the parties.

"Director" shall mean the director of the office of environmental remediation.

"Enrollee" shall mean an applicant who has been accepted into the local brownfield cleanup program and has signed a local brownfield cleanup agreement.

"Hazardous waste" shall mean a hazardous waste as defined in section 27-1301 of the environmental conservation law.

"Historic fill material" shall mean non-indigenous material, deposited or disposed of to raise the topographic elevation of real property, which material may have been contaminated prior to emplacement, and is in no way connected with the subsequent operations at the location of the emplacement and which includes, without limitation, construction debris, dredge spoils, incinerator residue, demolition debris, coal ash, fly ash, and non-hazardous waste. "Historic fill material" does not include any material which is chemical production waste or waste from processing of metal or mineral ores, residues, slag or tailings. In addition, historic fill material does not include a municipal solid waste site built after nineteen hundred sixty two.

"Light to moderate levels of contamination" shall mean detectable levels of contamination, the presence of which does not require an applicant or enrollee to conduct any mandatory, governmental-supervised investigation or remediation of the contamination under any state or federal law.

"Local brownfield site" or "site" shall mean any real property within the city, the redevelopment or reuse of which may be complicated by the presence or potential presence of light to moderate levels of contamination, or any real property that meets the definition of a delegated brownfield site, including, but not limited to, real property containing historic fill material and real property rejected from state programs on grounds that the environmental contamination is not sufficient to warrant state involvement. "Local brownfield site" or "site" shall not include real property: (1) containing discharges of petroleum, except as authorized by the state department of environmental conservation upon agreement with the office or by state law, (2) at the time of application to this program and pursuant to section 27-1305 of the environmental conservation law, listed in the state registry of inactive hazardous waste disposal sites and classified as either (i) causing or presenting an imminent danger of causing irreversible or irreparable damage to the public health or environment—immediate action required, or (ii) significant threat to the public health or environment—action required; (3) listed on the national priorities list pursuant to 42 U.S.C. section 9605; (4) subject to an enforcement action under title seven or nine of article twenty-seven of the environmental conservation law, except a treatment, storage or disposal facility subject to a permit; provided, that nothing herein contained shall be deemed to exclude from the scope of the term "local brownfield site" a hazardous waste treatment, storage or disposal facility having interim status according to regulations promulgated by the state department of environmental conservation; (5) subject to an order for cleanup pursuant to article twelve of the navigation law or pursuant to title ten of article seventeen of the environmental conservation law except such property shall not be deemed ineligible if it is subject to a stipulation agreement; or (6) subject to any other on-going city, state or federal environmental enforcement action related to the contamination which is at or emanating from the real property.

"Office" shall mean the office of environmental remediation.

"Participant" shall mean an enrollee who either: (1) was the owner of the local brownfield site at the time of disposal or discharge of contaminants, or (2) is otherwise a person responsible according to applicable principles of statutory

or common law liability, unless such person's liability arises solely as a result of such person's ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants.

"Petroleum" shall mean oil or petroleum of any kind and in any form including, but not limited to, oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other wastes and crude oils, gasoline and kerosene.

"Remedial action work plan" shall mean a written document providing for the development and implementation of a remedial program for contamination within the boundaries of the local brownfield site; provided, however, that a participant shall also be required to provide in the remedial action work plan for the development and implementation of a remedial program for contamination that has emanated from the local brownfield site.

"Remedial investigation report" shall mean a report that fully characterizes the nature and extent of contamination at and/or emanating from a brownfield site.

"Site management" shall mean the management of physical barriers and methods and non-physical means to limit human and environmental exposure to contamination at and/or emanating from a site, as well as the implementation of any necessary monitoring, reporting, certification and/or operation and maintenance of a remedy, after the issuance of a certificate of completion.

"Site management plan" shall mean a written document providing for site management.

"Volunteer" shall mean an enrollee other than a participant, including without limitation a person whose liability arises solely as a result of such person's ownership or operation of or involvement with the local brownfield site subsequent to the disposal or discharge of contaminants, provided, however, that such person exercises appropriate care with respect to contamination found at the site by taking reasonable steps to: (1) stop any continuing release; (2) prevent any threatened future release; and (3) prevent or limit human, environmental, or natural resource exposure to any previously released contamination.

§24-903 Rules for the Local Brownfield Cleanup Program. The director shall develop and administer a local brownfield cleanup program and shall promulgate rules to effectuate the provisions of this chapter including, but not limited to, rules:

(a) Prescribing the form for an application to participate in the local brownfield cleanup program and establishing an application review process to ensure that only eligible local brownfield sites, as provided in section 24-904 of this chapter, are accepted into the local brownfield cleanup program.

(b) Prescribing a local brownfield cleanup agreement, including a requirement that the enrollee pay for costs incurred by the city and an indemnification provision holding the city harmless from any claim, suit, action, and cost arising out of or resulting from the fulfillment or attempted fulfillment of the agreement.

(c) Prescribing requirements for remedial investigation reports, remedial action work plans, and such other reports and work plans as the office shall require, and providing mechanisms for the preparation, submission, review, approval, modification, and rejection of such reports and work plans.

(d) Providing adequate procedures to ensure that remedial action work plans and remedial actions are protective of public health and the environment, and consistent with the current, intended or reasonably anticipated residential, commercial, industrial or other end use of the local brownfield site. Cleanup standards and remedial selection criteria shall be consistent with standards and criteria applicable to the state brownfield cleanup program, including all applicable guidance documents.

(e) Prescribing procedures for citizen participation.

(f) Providing for access by the office or any person so authorized by the office (1) to any real property that has either submitted a request to participate in the local brownfield cleanup program, is enrolled in the local brownfield cleanup program, or has been issued a certificate of completion, for the purpose of ensuring that any applicant, enrollee, or recipient of a certificate of completion complies with the provisions of this chapter or rules promulgated pursuant thereto, including, but not limited to, providing access for the purpose of inspecting and taking samples of contaminants and/or environmental media, and for the purpose of inspecting the adequacy of site management activities; (2) to information relating to any applicant's or enrollee's current and past activities concerning contaminants; and (3) to documents relating to the current and past contamination of a local brownfield site.

(g) Prescribing mechanisms for the office to determine whether the remedial actions are complete and to issue documentation indicating that the remedial actions are complete, including through the issuance of a certificate of completion.

(h) Providing for the issuance of a clean property certification to those properties that have successfully completed the local brownfield cleanup program or other programs equivalent to the local brownfield cleanup program.

(i) Establishing procedures and enforcement mechanisms, including recording of the declaration of covenants and restrictions and notification of the department of buildings and other appropriate agencies of such declaration, to ensure that the owner of the local brownfield site or its successors or assigns continues in full force and effect all institutional and engineering controls required at the site in accordance with the local brownfield cleanup agreement, remedial action work plan, declaration of covenant and restrictions, site management plan, and any other applicable document or plan. The procedures

shall include the process for notifying the public regarding compliance with institutional and engineering controls.

(j) Requiring notice to the office of any change of use at a local brownfield site and an opportunity for the office to prohibit such change of use for cause.

§ 24-904 Eligibility. The office shall determine whether to accept or reject an application to participate in the local brownfield cleanup program.

(a) The office shall reject the application if:

(1) the real property does not meet the definition of a local brownfield site as provided in section 24-902 of this chapter;

(2) there is an action or proceeding relating to the local brownfield site against the applicant that is pending in any civil or criminal court in any jurisdiction, or before any city, state or federal administrative agency or body, wherein the city, state or federal government seeks penalties or the investigation, removal, or remediation of contamination; or

(3) there is an order against the applicant providing for the investigation, removal, or remediation of contamination relating to the local brownfield site.

(b) The office may reject the application if the office determines that the public interest would not be served by accepting the application.

§ 24-905 Citizen Participation.

(a) The borough president and council member representing the area in which the local brownfield site is located, community board for the district in which the local brownfield site is located, residents living on or immediately adjacent to the local brownfield site, community based organizations, and other appropriate community groups shall be notified upon receipt by the office of the application to participate in the local brownfield cleanup program; before the office finalizes a remedial action work plan or approves a report on remedial action; and before the enrollee commences construction at the local brownfield site.

(b) The office shall provide opportunities for public comment and shall prescribe a procedure for enrollees to make documents available to the public.

§24-906 Certificate of Completion.

(a) A certificate of completion shall include (1) a finding that the enrollee has successfully completed the local brownfield cleanup program, (2) a statement that, subject to the provisions of this section and except as provided in the remedial action work plan, site management plan, declaration of covenants and restrictions, or certificate of completion, the city shall not take or require any further investigatory or remedial action against the site and the enrollee, his or her successors, and his or her assigns, regarding the contamination addressed at the site, and (3) a recommendation that no other governmental entity take or require any investigatory or remedial action against the site and the enrollee, his or her successors, and his or her assigns, regarding the contamination addressed at the site. The director shall seek to enter into agreements with federal and/or state agencies and other entities that formally recognize cleanups for which a city certificate of completion has been issued, and that stipulate that the federal and/or state agency or other entity does not intend or anticipate taking further actions requiring additional cleanup and investigation for contamination that an enrollee has appropriately addressed under the local brownfield cleanup program, subject to such terms and conditions as may be required by the federal and/or state agency or other entity. Nothing in this section shall in any way be interpreted as a binding legal commitment or obligation on behalf of the director to enter into such an agreement with the federal and/or state agency or other entity for any site enrolled in the local brownfield cleanup program, nor in any way restrict the director's discretion in negotiating the terms and conditions of such an agreement with the federal and/or state agency or other entity.

(b) (1) The city nonetheless shall reserve all of its rights concerning any further investigation and/or remediation the office deems necessary due to:

(i) environmental contamination at, on, under, or emanating from the local brownfield site if, in light of such conditions, the site is no longer protective of public health or the environment; or

(ii) non-compliance with the terms of the local brownfield cleanup agreement, the remedial action work plan, the site management plan, declaration of covenants and restrictions, or the certificate of completion; or

(iii) fraud committed by the applicant in the application for or by the enrollee during participation in the local brownfield cleanup program; or

(iv) a written finding by the office that a change in an environmental standard, factor, or criterion upon which the remedial action work plan was based, renders the local brownfield site remedial program implemented at the site no longer protective of public health or the environment; or

(v) a change in the local brownfield site's use subsequent to the office's issuance of the certificate of completion unless additional remediation is undertaken as determined by the office, which shall meet the standard for protection of public health and the environment that applies under this chapter.

(2) In the case of a volunteer, subparagraph v of paragraph one of this subdivision shall not apply if the property has been remediated for unrestricted use as provided in section 27-1415 of the environmental conservation law.

(c) The certificate of completion provided pursuant to this section shall run with the land, extending to the enrollee's successors or assigns through acquisition of title to the local brownfield site and to a person who develops or otherwise occupies the local brownfield site; provided, however, that such persons act with due care and in good faith to adhere to the requirements of the local brownfield cleanup agreement, remedial action work plan, site management plan, declaration of covenants and restrictions, and certificate of

completion. The certificate of completion does not extend, and cannot be transferred, to a person who is responsible for the disposal or the discharge of contaminants on the local brownfield site according to applicable principles of statutory or common law liability as of the effective date of the certification of completion issued pursuant to this chapter, unless that person was party to the local brownfield cleanup agreement for the local brownfield site.

(d) The provisions of this section shall not affect an action or a claim, including a statutory or common law claim for contribution or indemnification, that an enrollee has or may have against a third party.

(e) Nothing in this section shall be construed to affect the liability of any person with respect to any costs, damages, or investigative or remedial activities that are not included in the local brownfield cleanup agreement, or remedial action work plan for the local brownfield site.

**§24-907 Civil Penalties.**

Any applicant, enrollee, or recipient of a certificate of completion who misrepresents any material fact related to the investigation, remediation or site management of a local brownfield site shall be liable for a civil penalty of not more than twenty-five thousand dollars. Such civil penalty may be recovered in a proceeding before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable before the environmental control board.

**§24-908 Withholding of permits.**

Where the office has determined that the owner of a local brownfield site or its successors or assigns has failed to continue in full force and effect all institutional and engineering controls required at such site in accordance with any applicable document or plan, it shall notify the department of buildings of such failure and the department of buildings shall withhold the issuance of permits from such site.

§5. This local law shall take effect immediately.

JAMES F. GENNARO, Chairperson; BILL DEBLASIO, G. OLIVER KOPPELL, PETER F. VALLONE JR., MELISSA MARK-VIVERITO, THOMAS WHITE JR., MATHIEU EUGENE, ELIZABETH CROWLEY, ERIC A. ULRICH, Committee on Environmental Protection, April 22, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Environmental Protection and have been favorably reported for adoption.

Report for Res. No. 1928

**Report of the Committee on Environmental Protection in favor of approving a Resolution finding that the enactment of Proposed Int. No. 21-A does not have a significant adverse impact on the environment and is consistent with The State Environmental Quality Review Act.**

The Committee on Environmental Protection, to which was referred on April 22, 2009 the annexed resolution, respectfully

**REPORTS:**

**(For report, please see related Report of the Committee on Environmental Protection for Int No. 21-A printed in these Minutes).**

Accordingly, Your Committee recommends its adoption.

**(The following is the text of Res. No. 1928:)**

Res. No. 1928

**Resolution finding that the enactment of Proposed Int. No. 21-A does not have a significant adverse impact on the environment and is consistent with The State Environmental Quality Review Act.**

By Council Members Gennaro, Dickens, Mitchell and Weprin.

**Whereas**, The enactment of Proposed Int. No. 21-A, A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to developing a comprehensive program for the remediation and reuse of brownfields, is an "action" as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

**Whereas**, The Council and the Office of the Mayor, as co-lead agencies pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review, have considered the relevant environmental issues attendant to such enactment; and

**Whereas**, After such consideration and examination of an Environmental Assessment Statement, the Council and the Office of the Mayor have determined that a Negative Declaration should be issued; and

**Whereas**, The Council and the Office of the Mayor have examined and considered the Negative Declaration that was prepared; now, therefore, be it

**Resolved**, That the Council of the City of New York, having considered the Negative Declaration, hereby finds that:

(1) the requirements of The State Environmental Quality Review Act and Part 617 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York have been met; and

(2) consistent with environmental, social, economic and other essential considerations, the proposed action is one which will not result in any significant adverse environmental impacts; and

(3) the annexed Negative Declaration constitutes the written statement of facts and conclusions, and of environmental, social, economic and other facts and standards that form the basis of this determination.

**ATTACHMENT: Negative Declaration**



**NEGATIVE DECLARATION**

CEQR No. 0900M002Y

Date Issued: April 20, 2009

NAME:

A local law to amend the City Charter to create the Office of Environmental Remediation and to amend the Administrative Code of the City of New York to create a local brownfield cleanup program

LOCATION:

Citywide

SEQR CLASSIFICATION: The project is classified as an Unlisted action pursuant to 6 NYCRR Part 617.2(ak)

DESCRIPTION:

The action consists of the passage of a local law that amends Section 15 of the New York City Charter that would create an Office of Environmental Remediation ("OER"), led by a director. OER would oversee all aspects of the city's brownfield policy and administer the E-designation program, as defined in the zoning resolution and the restrictive declaration program that arises from the environmental review of land use actions. The local law also amends Title 24 of the Administrative Code of the City of New York that would create a Local Brownfield Cleanup Program. Discretionary actions that require environmental review include passage of the law by the City Council and approval of the law by the Mayor of the City of New York, or in the case of a mayoral veto, an override of such veto by the Council.

The proposed local law would amend Title 24 of the Administrative Code by adding a new chapter 9 that creates the Local Brownfield Cleanup Program ("LBCP"). The director would be authorized to develop and administer the local cleanup program and to promulgate rules to effectuate the program. The rules would prescribe an application form for parties seeking to participate in the program; a local brownfield cleanup agreement; requirements for reports and work plans that the office shall require; provide procedures to ensure remedies are protective of public health and safety and cleanup standards are consistent with standards applicable to the New York State brownfield cleanup program; procedures for citizen participation; provide OER access to properties admitted into the LBCP; prescribe mechanisms for OER to determine when remedial actions are complete and issue clean property certificates; and establish enforcement

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mechanisms to ensure through deed restrictions that owners of remediated sites maintain site management plans.

Other sections of Title 24, Chapter 9 would set forth eligibility criteria by which OER would determine whether to accept or reject an application to participate in the LBCP; citizen participation requirements, which would require notification to affected communities of properties entering the LBCP and provide for public comment; provisions for a Certification of Completion and OER's authority to reopen sites for further investigation and/or remediation. Finally, Chapter 9 would allow for assessment of civil penalties and the basis by which such penalties may be recovered and the basis by which OER shall notify the Department of Buildings to halt the issuance of building permits on remediated sites that fail to maintain their site management plans.

Statement of No Significant Effect

Pursuant to Executive Order 91 of 1977, as amended, and the Rules of Procedure for City Environmental Quality Review, found at Title 62, Chapter 5 of the Rules of the City of New York, the Office of the Mayor and the New York City Council assumed the role of co-lead agencies for the purpose of conducting the environmental review pursuant to 62 RCNY §5-03(d). Based on an examination of information about the project contained in an Environmental Assessment Statement dated April 20, 2009 pursuant to Article 8 of the New York State Environmental Conservation Law and 6 NYCRR Part 617.7, the Office of the Mayor and the New York City Council have determined that the proposed action will not have a significant adverse effect on the environment.

Reasons Supporting this Determination

The above determination is based on an Environmental Assessment Statement (EAS) dated April 20, 2009 and incorporated by reference herein. The EAS finds that:

- 1. The proposed action is the passage of a local law to create the Office of Environmental Remediation, to create a Local Brownfield Cleanup Program, and to transfer administrative responsibilities for an existing program (the e-designation program, as defined in the City's Zoning Resolution). As such, the proposed action is generic in nature and would not be expected to result in site-specific changes that would affect the following technical areas:

- Community Facilities and Services
Shadows
Historic Resources
Urban Design/Visual Resources
Neighborhood Character
Natural Resources
Infrastructure
Solid Waste and Sanitation Services
Energy
Traffic and Parking
Transit and Pedestrians

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- Air Quality
Noise
Construction Impacts.

- 1. Because the action is generic in nature, creating a new citywide local brownfield cleanup program, there are no specific sites proposed. The creation of this new regulatory program would have the potential to impact the following technical analysis areas: Land Use, Open Space, Neighborhood Character, and Socioeconomic Conditions. However, because this program would facilitate the remediation of lightly and moderately contaminated sites within the five boroughs, it would enhance land use, facilitate the development of open space, improve neighborhood character and not have the potential to affect socioeconomic conditions.
2. Because the proposed action would result in a regulatory program that would encourage the cleanup of contaminated sites, existing hazardous materials would be reduced and there would be a beneficial effect of the program.
3. As discussed above, existing hazardous materials would be reduced. Therefore, there would be less exposure to such materials through the various pathways and this would be a positive impact on public health.
4. No other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable.
5. This Negative Declaration was prepared in accordance with Article 8 of the New York State Environmental Conservation Law.

Signature of Robert R. Kulikowski, Ph.D., Assistant to the Mayor

April 20, 2009 Date

Signature of Jeffrey Haberman, Deputy Director, Infrastructure Division

April 20, 2009 Date

ATTACHMENT to Committee Report:



City Environmental Quality Review ENVIRONMENTAL ASSESSMENT STATEMENT PART I, GENERAL INFORMATION

Reference Numbers

1. 0900M002Y CEQR REFERENCE NUMBER (TO BE ASSIGNED BY LEAD AGENCY) BSA REFERENCE NO. IF APPLICABLE

Lead Agency & Applicant Information

2a. Co-lead Agencies Office of the Mayor and City Council NAME OF LEAD AGENCY Robert Kulikowski/Jeffrey Haberman NAME OF LEAD AGENCY CONTACT PERSON 253 Broadway/250 Broadway ADDRESS New York NY 10007 CITY STATE ZIP 212.788.2937/9122 TELEPHONE FAX rkulikowski@cityhall.nyc.gov jhaberman@cityhall.nyc.gov EMAIL ADDRESS

Action Description

3a. NAME OF PROPOSAL A local law to amend the NYC Charter and the Administrative Code of the city of New York, in relation to establishing an office of environmental remediation and a local brownfield cleanup program. See Attachment B. 3b. DESCRIBE THE ACTION(S) AND APPROVAL(S) BEING SOUGHT FROM OR UNDERTAKEN BY CITY (AND IF APPLICABLE, STATE AND FEDERAL AGENCIES) AND, BRIEFLY, DESCRIBE THE DEVELOPMENT OR PROJECT THAT WOULD RESULT FROM THE PROPOSED ACTION(S) AND APPROVAL(S): See Attachment A.

Required Action or Approvals

3c. DESCRIBE THE PURPOSE OF AND NEED FOR THE ACTION(S) AND APPROVAL(S): 4. CITY PLANNING COMMISSION [ ] Yes [x] No [ ] Change in City Map [ ] Zoning Certification [ ] Site Selection - Public Facility [ ] Zoning Map Amendment [ ] Zoning Authorization [ ] Disposition - Real Property [ ] Franchise [ ] Zoning Text Amendment [ ] Housing Plan & Project [ ] UDAAF [ ] Revocable Consent [ ] Concession [ ] Charter 197-a Plan [ ] Zoning Special Permit, specify type: [ ] Modification of [ ] Renewal of [ ] Other 5. UNIFORM LAND USE PROCEDURE (ULURP) [ ] Yes [x] No

PLEASE NOTE THAT MANY ACTIONS ARE NOT SUBJECT TO CEQR. SEE SECTION 110 OF TECHNICAL MANUAL.

Action Type

6. BOARD OF STANDARDS AND APPEALS [ ] Yes [x] No [ ] Special Permit [ ] New [ ] Renewal [ ] Expiration Date [ ] Variance [ ] Use [ ] Bulk Specify affected section(s) of Zoning Resolution 7. DEPARTMENT OF ENVIRONMENTAL PROTECTION [ ] Yes [x] No [ ] Title V Facility [ ] Power Generation Facility [ ] Medical Waste Treatment Facility 8. OTHER CITY APPROVALS [x] Yes [ ] No [x] Legislation [ ] Rulemaking, specify agency: [ ] Construction of Public Facilities [ ] Funding of Construction, Specify [ ] Funding of Programs, Specify [ ] Policy or plan [ ] Permits, Specify: Other, explain:

Analysis Year

9. STATE ACTIONS/APPROVALS/FUNDING [ ] Yes [x] No If "Yes," identify 10. FEDERAL ACTIONS/APPROVALS/FUNDING [ ] Yes [x] No If "Yes," identify 11a. [x] Unlisted; or [ ] Type I; specify category (see 6 NYCRR 617.4 and NYC Executive Order 91 OF 1977, as amended): 11b. [ ] Localized action, site specific [ ] Localized action, change in regulatory control for small area [x] Generic action

Directly Affected Area

12. Identify the analysis year (or build year) for the proposed action: 2009 - the law would be effective upon enactment Would the proposal be implemented in a single phase? [x] Yes [ ] No [ ] NA. Anticipated period of construction: N/A Anticipated completion date: N/A Would the proposal be implemented in multiple phases? [ ] Yes [x] No [ ] NA. Number of phases: Describe phases and construction schedule: N/A - action is enactment of a local law

13a. LOCATION OF PROJECT SITE City-wide STREET ADDRESS DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS EXISTING ZONING DISTRICT, INCLUDING SPECIAL ZONING DISTRICT DESIGNATION IF ANY ZONING SECTIONAL MAP NO. TAX BLOCK AND LOT NUMBERS BOROUGH COMMUNITY DISTRICT NO.

13b. PHYSICAL DIMENSIONS AND SCALE OF PROJECT TOTAL CONTIGUOUS SQUARE FEET OWNED OR CONTROLLED BY PROJECT N/A SQ. FT. PROJECT SQUARE FEET TO BE DEVELOPED: SQ. FT. GROSS FLOOR AREA OF PROJECT: SQ. FT. IF THE ACTION IS AN EXPANSION, INDICATE PERCENT OF EXPANSION PROPOSED: % OF DIMENSIONS (IN FEET) OF LARGEST PROPOSED STRUCTURE: HEIGHT WIDTH LENGTH LINEAR FEET OF FRONTAGE ALONG A PUBLIC THOROUGHFARE:

13c. IF THE ACTION WOULD APPLY TO THE ENTIRE CITY OR TO AREAS THAT ARE SO EXTENSIVE THAT A SITE-SPECIFIC DESCRIPTION IS NOT APPROPRIATE OR PRACTICABLE, DESCRIBE THE AREA LIKELY TO BE AFFECTED BY THE ACTION: Action would apply City-wide

13d. DOES THE PROPOSED ACTION INVOLVE CHANGES IN REGULATORY CONTROLS THAT WOULD AFFECT ONE OR MORE SITES NOT ASSOCIATED WITH A SPECIFIC DEVELOPMENT? [x] Yes [ ] No IF "YES," IDENTIFY THE LOCATION OF THE SITES PROVIDING THE INFORMATION REQUESTED IN 13a & 13b ABOVE. Potentially any brownfield site within the five boroughs of the City.

Site Description

EXCEPT WHERE OTHERWISE INDICATED, ANSWER THE FOLLOWING QUESTIONS WITH REGARD TO THE DIRECTLY AFFECTED AREA. THE DIRECTLY AFFECTED AREA CONSISTS OF THE PROJECT SITE AND THE AREA SUBJECT TO ANY CHANGE IN REGULATORY CONTROLS.

PART II, SITE AND ACTION DESCRIPTION

1. GRAPHICS Please attach: (1) a Sanborn or other land use map; (2) a zoning map; and (3) a tax map. On each map, clearly show the boundaries of the directly affected area or areas and indicate a 400-foot radius drawn from the outer boundaries of the project site. The maps should not exceed 8 1/2 x 14 inches in size. N/A
2. PHYSICAL SETTING (both developed and undeveloped areas) N/A
3. PRESENT LAND USE N/A
4. EXISTING PARKING N/A
5. EXISTING STORAGE TANKS N/A

6. CURRENT USERS N/A
7. HISTORIC RESOURCES (ARCHITECTURAL AND ARCHAEOLOGICAL RESOURCES) N/A
8. WATERFRONT REVITALIZATION PROGRAM
9. CONSTRUCTION N/A
10. PROPOSED LAND USE N/A

Publicly accessible open space
Is there any existing publicly accessible open space to be removed or altered?
Is there any existing publicly accessible open space to be added?
Other land use
11. PROPOSED PARKING N/A
12. PROPOSED STORAGE TANKS N/A
13. PROPOSED USERS N/A
14. HISTORIC RESOURCES (ARCHITECTURAL AND ARCHAEOLOGICAL RESOURCES) N/A
15. DIRECT DISPLACEMENT
16. COMMUNITY FACILITIES
17. What is the zoning classification(s) of the directly affected area?
18. What is the maximum amount of floor area that can be developed in the directly affected area under the present zoning?
19. What is the proposed zoning of the directly affected area?
20. What is the maximum amount of floor area that could be developed in the directly affected area under the proposed zoning?
21. What are the predominant land uses and zoning classifications within a 1/4 mile radius of the proposed action?

SEE CEQR TECHNICAL MANUAL CHAPTER III B. SOCIOECONOMIC CONDITIONS

SEE CEQR TECHNICAL MANUAL CHAPTER III C. COMMUNITY FACILITIES & SERVICES

Zoning Information

Additional Information

Analyses

Applicant Certification

22. Attach any additional information as may be needed to describe the action. If your action involves changes in regulatory controls that affect one or more sites not associated with a specific development, it is generally appropriate to include here one or more reasonable development scenarios for such sites and, to the extent possible, to provide information about such scenarios(s) similar to that requested in the Project Description questions 9 through 16.
23. Attach analyses for each of the impact categories listed below (or indicate where an impact category is not applicable):
a. LAND USE, ZONING, AND PUBLIC POLICY
b. SOCIOECONOMIC CONDITIONS
c. COMMUNITY FACILITIES AND SERVICES
d. OPEN SPACE
e. SHADOWS
f. HISTORIC RESOURCES
g. URBAN DESIGN/VISUAL RESOURCES
h. NEIGHBORHOOD CHARACTER
i. NATURAL RESOURCES
j. HAZARDOUS MATERIALS
k. WATERFRONT REVITALIZATION PROGRAM
l. INFRASTRUCTURE
m. SOLID WASTE AND SANITATION SERVICES
n. ENERGY
o. TRAFFIC AND PARKING
p. TRANSIT AND PEDESTRIANS
q. AIR QUALITY
r. NOISE
s. CONSTRUCTION IMPACTS
t. PUBLIC HEALTH

The CEQR Technical Manual sets forth methodologies developed by the City to be used in analyses prepared for the above-listed categories. Other methodologies developed or approved by the lead agency may also be utilized. If a different methodology is contemplated, it may be advisable to consult with the Mayor's Office of Environmental Coordination. You should also attach any other necessary analyses or information relevant to the determination whether the action may have a significant impact on the environment, including, where appropriate, information on combined or cumulative impacts, as might occur, for example, where actions are interdependent or occur within a discrete geographical area or time frame.

24. Mark McIntyre
PREPARER NAME PRINCIPAL
General Counsel, OER
PREPARER TITLE NAME OF PRINCIPAL REPRESENTATIVE
[Signature]
PREPARER SIGNATURE TITLE OF PRINCIPAL REPRESENTATIVE
April 17, 2009
DATE SIGNATURE OF PRINCIPAL REPRESENTATIVE
DATE

NOTE: Any person who knowingly makes a false statement or who knowingly falsifies any statement on this form or allows any such statement to be falsified shall be guilty of an offense punishable by fine or imprisonment or both, pursuant to Section 10-154 of the New York City Administrative Code, and may be liable under applicable laws.



**Impact  
Significance**

**PART III, ENVIRONMENTAL ASSESSMENT AND DETERMINATION**  
TO BE COMPLETED BY THE LEAD AGENCY

The lead agency should complete this Part after Parts I and II have been completed. In completing this Part, the lead agency should consult 6 NYCRR 617.7, which contains the State Department of Environmental Conservation's criteria for determining significance. The lead agency should ensure the creation of a record sufficient to support the determination in this Part. The record may be based upon analyses submitted by the applicant (if any) with Part II of the EAS. The CEQR Technical Manual sets forth methodologies developed by the City to be used in analyses prepared for the listed categories. Alternative or additional methodologies may be utilized by the lead agency.

- For each of the impact categories listed below, consider whether the action may have a significant adverse effect on the environment with respect to the impact category. If it may, answer yes.
 

LAND USE, ZONING, AND PUBLIC POLICY	No
SOCIOECONOMIC CONDITIONS	No
COMMUNITY FACILITIES AND SERVICES	No
OPEN SPACE	No
SHADOWS	No
HISTORIC RESOURCES	No
URBAN DESIGN/VISUAL RESOURCES	No
NEIGHBORHOOD CHARACTER	No
NATURAL RESOURCES	No
HAZARDOUS MATERIALS	No
WATERFRONT REVITALIZATION PROGRAM	No
INFRASTRUCTURE	No
SOLID WASTE AND SANITATION SERVICES	No
ENERGY	No
TRAFFIC AND PARKING	No
TRANSIT AND PEDESTRIANS	No
AIR QUALITY	No
NOISE	No
CONSTRUCTION IMPACTS	No
PUBLIC HEALTH	No
- Are there any aspects of the action relevant to the determination whether the action may have a significant impact on the environment, such as combined or cumulative impacts, that were not fully covered by other responses and supporting materials? If there are such impacts, explain them and state where, as a result of them, the action may have a significant impact on the environment.
- If the lead agency has determined in its answers to questions 1 and 2 of this Part that the action will have no significant impact on the environment, a negative declaration is appropriate. The lead agency may, in its discretion, further elaborate here upon the reasons for issuance of a negative declaration.
- If the lead agency has determined in its answers to questions 1 and 2 of this part that the action may have a significant impact on the environment, a conditional negative declaration (CND) may be appropriate if there is a private applicant for the action and the action is not Type I. A CND is only appropriate when conditions imposed by the lead agency will modify the proposed action so that no significant adverse environmental impacts will result. If a CND is appropriate, the lead agency should describe here the conditions to the action that will be undertaken and how they will mitigate potential significant impacts.
- If the lead agency has determined that the action may have a significant impact on the environment, and if a conditional negative declaration is not appropriate, then the lead agency should issue a positive declaration. Where appropriate, the lead agency may, in its discretion, further elaborate here upon the reasons for issuance of a positive declaration. In particular, if supporting materials do not make clear the basis for a positive declaration, the lead agency should describe briefly the impact(s) it has identified that may constitute a significant impact on the environment.

**Lead Agency  
Certification**

PREPARER NAME	Robert R. Kulikowski, PhD/Jeffrey Haberman
PREPARER TITLE	NAME OF LEAD AGENCY REPRESENTATIVE Assistant to the Mayor/Deputy Director
PREPARER SIGNATURE	TITLE OF LEAD AGENCY REPRESENTATIVE 
DATE	SIGNATURE OF LEAD AGENCY REPRESENTATIVE April 20, 2009

**ATTACHMENT A  
ENVIRONMENTAL ASSESSMENT STATEMENT**

**Re: A local law to amend the NYC Charter and the Administrative Code of the city of New York, in relation to establishing an office of environmental remediation and a local brownfield cleanup program.**

**CEQR Number** 0900M002Y

**Location:** Citywide

**Type of Action:** Unlisted

**3b. PROJECT DESCRIPTION:**

The action consists of the passage of a local law that amends Section 15 of the New York City Charter to create an Office of Environmental Remediation ("OER"), led by a director. OER would oversee all aspects of the city's brownfield policy and administer the E-designation program, as defined in the zoning resolution and the restrictive declaration program that arises from the environmental review of land use actions. The local law also amends Title 24 of the Administrative Code of the City of New York that would create a Local Brownfield Cleanup Program. Discretionary actions that require environmental review include passage of the law by the City Council and approval of the law by the Mayor of the City of New York, or in the case of a mayoral veto, an override of such veto by the Council.

The proposed local law would amend Title 24 of the Administrative Code by adding a new chapter 9 that creates the Local Brownfield Cleanup Program ("LBCP"). The director would be mandated to develop and administer the local cleanup program and to promulgate rules to effectuate the program. The rules would prescribe an application form for parties seeking to participate in the program; a local brownfield cleanup agreement; requirements for reports and work plans that the office shall require; provide procedures to ensure remedies are protective of public health and safety and cleanup standards are consistent with standards applicable to the New York State brownfield cleanup program, including all applicable guidance documents; procedures for citizen participation; provide OER access to properties admitted into the LBCP; prescribe mechanisms for OER to determine when remedial actions are complete and issue clean property certificates; and establish enforcement mechanisms to ensure through deed restrictions that owners of remediated sites maintain site management plans.

Other sections of Title 24, Chapter 9 would set forth eligibility criteria by which OER would determine whether to accept or reject an application to participate in the LBCP; citizen participation requirements, which would require notification to affected communities of properties entering the LBCP and provide for public comment; provisions for a Certification of Completion and OER's authority to reopen sites for further investigation and/or remediation.

Finally, Chapter 9 would allow for assessment of civil penalties and the basis by which such penalties may be recovered and the basis by which OER shall notify the Department of Buildings to halt the issuance of building permits on remediated sites that fail to maintain their site management plans.

**3c. STATEMENT OF PURPOSE AND NEED**

**Creation of a Local Brownfield Cleanup Program**

The proposed law creates a city-administered Local Brownfield Cleanup Program to provide protective cleanups for light to moderately contaminated sites in New York City. The local program would oversee the remediation of many properties that cannot enter state brownfield cleanup programs. This environmental protection program will foster economic development across the city that reflects community needs.

The creation of a city brownfield office and a city-managed local brownfield cleanup program were important land initiatives of PlaNYC, Mayor Bloomberg's sustainability plan for New York City, which was released in April, 2007. The local brownfield cleanup program was conceived to provide oversight of light to moderately contaminated city brownfields. OER's technical staff would review work plans, approve remedies and provide liability protection for city brownfields. Currently, the vast majority of city brownfields are not eligible for New York State voluntary cleanup programs and thus not eligible to receive these benefits. PlaNYC estimates that the city has 5,500 acres of brownfields that are either ineligible or unlikely to enter state voluntary cleanup programs. The local brownfield cleanup program would provide protective remedies that incorporate the same cleanup standards that state regulators apply to sites in the state brownfield cleanup program. In addition, PlaNYC recognized the local cleanup program as an economic development initiative because the pace of remediation in the city would increase substantially over time.

As a vehicle of growth, the local cleanup program is consistent with several other PlaNYC initiatives, including pursuit of transit-oriented development, reclaiming underutilized waterfront, and the completion of underdeveloped regional parks.

**Transfer of e-Designation Program from DEP to OER**

Besides creation of a local brownfield cleanup program, the local law also transfers administration of the E-designation program and the Restrictive Declaration program, currently managed by DEP's Bureau of Environmental Planning and Assessment, to OER. This administrative transfer would entail no net change in management of either the E-designation or the Restrictive Declaration program and thus have no impact on the environment.

**23. ANALYSES**

The proposed action is the passage of a local law to create the Office of Environmental Remediation, to create a Local Brownfield Cleanup Program, and to transfer administrative responsibilities for an existing program (the e-designation program, as defined in the City's Zoning Resolution). As such, the proposed action is generic in nature and would not be expected to result in site-specific changes that would affect the following technical areas:

- Community Facilities and Services
- Shadows
- Historic Resources
- Urban Design/Visual Resources
- Neighborhood Character
- Natural Resources
- Infrastructure
- Solid Waste and Sanitation Services
- Energy
- Traffic and Parking
- Transit and Pedestrians
- Air Quality
- Noise
- Construction Impacts

Given the generic nature of the proposed action, there would be no site-specific effects. However, the creation of the local Brownfield Cleanup Program would be applicable to any brownfield or potential brownfield throughout the City. Therefore, the creation of this new program may have the potential to affect the following technical areas: Land Use, Zoning and Public Policy, Neighborhood Character, Open Space, Socioeconomic Conditions, Hazardous Materials, and Public Health. The effects in these areas would be expected to be positive, as discussed below. Further, actions associated with any specific sites in the local BCP would be subject to project-specific environmental reviews, as appropriate.

**Land Use, Zoning and Neighborhood Character**

The proposed action would not have any significant adverse impacts on land use, zoning or neighborhood character. The proposed action would likely have a beneficial impact on land use because, through the redevelopment of vacant and underutilized properties across the city, the proposed action would lead to more efficient use of the city's land.

Brownfields in the city are found on small sites, many of them infill sites. Other brownfields are clustered in certain communities and along the waterfront. The vast majority of city brownfields are less than 1/2 acre in size. Parties that apply small brownfield sites to the Local Brownfield Cleanup Program would tend to create

development projects of a smaller scale that would not have a significant impact on land use.

In a community with a cluster of brownfield sites, the local cleanup program could lead to several sites being cleaned up in a single neighborhood. If that created a privately-initiated rezoning or variance request, those actions would undergo site specific environmental reviews.

Similarly, if OER approved remedies for substantial developments that required a change in land use, an environmental review of such project would be required.

And if the local cleanup program, by providing oversight of moderately contaminated sites, accelerated the pace of remediation in the city, it might promote growth in particular communities. Any specific project that required a city discretionary action would be subject to environmental review.

**2.4 Hazardous Materials**

The proposed action would have a beneficial impact in the area of hazardous materials because the local cleanup program, operating over a 20 year period, would provide remedies to many of the brownfield sites across the city. Over time, unremediated sites where contaminants may pose a threat to the public, natural resources, or wildlife would be cleaned up to state standards, reducing exposures to hazardous materials across the city.

In designing remedies under the local cleanup program, OER will use standards, criteria and guidance that New York State Departments of Environmental Conservation and Health use for remedies in state voluntary cleanup programs.

The Local Brownfield Cleanup Program is intended as a permanent regulatory program. It is designed to be a principal vehicle to achieve the PlaNYC goal of cleaning up all contaminated sites in the city by 2030. This would have the beneficial effect of reducing exposures to hazardous materials across the city, including via airborne pathways (with a concomitant improvement in local air quality).

**2.5 Public Health**

For similar reasons, the local law, by creating a local brownfield cleanup program, would have a beneficial impact on public health. OER would deliver remedies at city sites that enter the local cleanup programs that are fully protective of public health. It will use the soil cleanup objectives of 6 NYCRR Part 375-6.8 that DEC employs for sites in the state brownfield cleanup programs. The soil cleanup objectives reflect the judgment of the New York State Health Department as to what concentrations of chemicals in soil are necessary to protect public health.

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**2.6 Socioeconomic Conditions**

The Local Brownfield Cleanup Program will not have a significant adverse impact on socioeconomic conditions. OER anticipates that many of the projects proposed to be built on city brownfields in the next decade will be for housing across the city. Such projects tend not to lead to a rise in housing costs and thus do not have the potential to lead to indirect displacement of existing residents in adjoining areas through raising rents. Moreover, most city brownfields are small sites, less than 1/2 acre in size. Housing developments that could be built on such sites would likely not exceed 200 units, and thus not lead to significant socioeconomic impacts.

As discussed in the Land Use section, if a cluster of brownfields were remediated in a single area, further development could proceed either as-of-right (in which case no environmental review is required) or with additional city actions that would undergo environmental review on a project-specific basis.

For projects operating under the local BCP that involve activities that have the potential for indirect displacement effects on businesses or residents in the surrounding area, such further site-specific development would occur either as-of-right (in which case no further environmental review is required) or would require a separate, project-specific environmental review.

The proposed action of passage of a local law to create a local brownfield cleanup program would, therefore, not adversely affect socioeconomic conditions.

**2.7 Open Space**

The local law will likely have a beneficial impact on public open space in the city. OER will work with the Department of Parks and Recreation to devise strategies to complete underdeveloped regional parks across the city. This assistance will include technical advice on how to conduct investigations and cleanups on potential park sites and strategies to obtain federal and state grants to offset the cost of site investigations and cleanups of potential park sites.

**2.8 Waterfront Revitalization Program**

The local law would create a local brownfield cleanup program that would be applicable citywide. Because this action is not a site-specific action, much of the WRP Consistency Form is not applicable because it addresses specific site issues. However, many brownfields are located along the waterfront because of historic industrial uses located in these areas. Waterfront sites remediated under this program would be consistent with all ten policies of the New Waterfront Revitalization Program. However, because of the goals of the proposed local brownfield cleanup program, it would be particularly germane

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to the following: Policy 1: Support and facilitate commercial and residential redevelopment in areas well-suited to such development; Policy 4: protect and restore the quality and function of ecological systems within the NYC coastal area; and Policy 7: minimize environmental degradation from solid waste and hazardous substances and would be highly consistent each of these.

A copy of the WRP Consistency Form is attached as ATT A1.

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ATT A1

For Internal Use Only: Date Received: _____	WRP no. _____ DOS no. _____
<b>NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM Consistency Assessment Form</b>	
<small>Proposed actions that are subject to CEQR, ULURP or other local, state or federal discretionary review procedures, and that are within New York City's designated coastal zone, must be reviewed and assessed for their consistency with the <u>New York City Waterfront Revitalization Program (WRP)</u>. The WRP was adopted as a 197-a Plan by the Council of the City of New York on October 13, 1999, and subsequently approved by the New York State Department of State with the concurrence of the United States Department of Commerce pursuant to applicable state and federal law, including the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. As a result of these approvals, state and federal discretionary actions within the city's coastal zone must be consistent to the maximum extent practicable with the WRP policies and the city must be given the opportunity to comment on all state and federal projects within its coastal zone.</small>	
<small>This form is intended to assist an applicant in certifying that the proposed activity is consistent with the WRP. It should be completed when the local, state, or federal application is prepared. The completed form and accompanying information will be used by the New York State Department of State, other state agencies or the New York City Department of City Planning in their review of the applicant's certification of consistency.</small>	
<b>A. APPLICANT</b>	
1. Name: <u>Office of the Mayor/New York City Council</u>	
2. Address: <u>253 Broadway/250 Broadway, New York, NY 10007</u>	
3. Telephone: <u>212.788.2937/9122</u> Fax: _____ E-mail: _____	
4. Project site owner: <u>N/A</u>	
<b>B. PROPOSED ACTIVITY</b>	
1. Brief description of activity: <small>The action consists of the passage of a local law that amends Section 15 of the New York City Charter that would create an Office of Environmental Remediation ("OER"), led by a director. OER would oversee all aspects of the city's brownfield policy and administer the E-designation program, as defined in the zoning resolution and the restrictive declaration program that arises from the environmental review of land use actions. The local law also amends Title 24 of the Administrative Code of the City of New York that would create a Local Brownfield Cleanup Program. Discretionary actions that require environmental review include passage of the law by the City Council and approval of the law by the Mayor of the City of New York, or in the case of a mayoral veto, an override of such veto by the Council.</small>	
2. Purpose of activity: <b>The proposed law creates a city-administered Local Brownfield Cleanup Program to provide protective cleanups for light to moderately contaminated sites in New York City. The local program would oversee the remediation of many properties that cannot enter state brownfield cleanup programs. This environmental protection program will foster economic development across the city that reflects community needs.</b>	
3. Location of activity: (street address/borough or site description): <b>City-wide</b>	
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**Proposed Activity Cont'd**

4. If a federal or state permit or license was issued or is required for the proposed activity, identify the permit type(s), the authorizing agency and provide the application or permit number(s), if known:  
N/A

5. Is federal or state funding being used to finance the project? If so, please identify the funding source(s).  
No

6. Will the proposed project require the preparation of an environmental impact statement?  
Yes \_\_\_\_\_ No  If yes, identify Lead Agency:

7. Identify city discretionary actions, such as a zoning amendment or adoption of an urban renewal plan, required for the proposed project.  
Passage of a bill by the City Council and approval by the Mayor or a veto by the Mayor and an override by the City Council.

**C. COASTAL ASSESSMENT**

Location Questions:	Yes	No
1. Is the project site on the waterfront or at the water's edge?	<input checked="" type="checkbox"/>	_____
2. Does the proposed project require a waterfront site?	_____	<input checked="" type="checkbox"/>
3. Would the action result in a physical alteration to a waterfront site, including land along the shoreline, land underwater, or coastal waters?	<input checked="" type="checkbox"/>	_____

Policy Questions	Yes	No
The following questions represent, in a broad sense, the policies of the WRP. Numbers in parentheses after each question indicate the policy or policies addressed by the question. The new <u>Waterfront Revitalization Program</u> offers detailed explanations of the policies, including criteria for consistency determinations.		
Check either "Yes" or "No" for each of the following questions. For all "yes" responses, provide an attachment assessing the effects of the proposed activity on the relevant policies or standards. Explain how the action would be consistent with the goals of those policies and standards.		
4. Will the proposed project result in revitalization or redevelopment of a deteriorated or under-used waterfront site? (1)	<input checked="" type="checkbox"/>	_____
5. Is the project site appropriate for residential or commercial redevelopment? (1.1)	<input checked="" type="checkbox"/>	_____
6. Will the action result in a change in scale or character of a neighborhood? (1.2)	_____	_____

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Policy Questions cont'd	Yes	No
29. Would the action result in significant amounts of acid rain precursors (nitrates and sulfates)? (5.2C)	_____	_____
30. Will the project involve the excavation or placing of fill in or near navigable waters, marshes, estuaries, tidal marshes or other wetlands? (5.3)	_____	_____
31. Would the proposed action have any effects on surface or ground water supplies? (5.4)	_____	_____
32. Would the action result in any activities within a federally designated flood hazard area or state-designated erosion hazards area? (6)	_____	_____
33. Would the action result in any construction activities that would lead to erosion? (6)	_____	_____
34. Would the action involve construction or reconstruction of a flood or erosion control structure? (6.1)	_____	_____
35. Would the action involve any new or increased activity on or near any beach, dune, barrier island, or bluff? (6.1)	_____	_____
36. Does the proposed project involve use of public funds for flood prevention or erosion control? (6.2)	_____	_____
37. Would the proposed project affect a non-renewable source of sand? (6.3)	_____	_____
38. Would the action result in shipping, handling, or storing of solid wastes, hazardous materials, or other pollutants? (7)	_____	_____
39. Would the action affect any sites that have been used as landfills? (7.1)	_____	_____
40. Would the action result in development of a site that may contain contamination or that has a history of underground fuel tanks, oil spills, or other form or petroleum product use or storage? (7.2)	<input checked="" type="checkbox"/>	_____
41. Will the proposed activity result in any transport, storage, treatment, or disposal of solid wastes or hazardous materials, or the siting of a solid or hazardous waste facility? (7.3)	<input checked="" type="checkbox"/>	_____
42. Would the action result in a reduction of existing or required access to or along coastal waters, public access areas, or public parks or open spaces? (8)	_____	_____
43. Will the proposed project affect or be located in, on, or adjacent to any federal, state, or city park or other land in public ownership protected for open space preservation? (8)	_____	_____
44. Would the action result in the provision of open space without provision for its maintenance? (8.1)	_____	_____
45. Would the action result in any development along the shoreline but NOT include new water-enhanced or water-dependent recreational space? (8.2)	_____	_____
46. Will the proposed project impede visual access to coastal lands, waters and open space? (8.3)	_____	_____
47. Does the proposed project involve publicly owned or acquired land that could accommodate waterfront open space or recreation? (8.4)	_____	_____
48. Does the project site involve lands or waters held in public trust by the state or city? (8.5)	_____	_____
49. Would the action affect natural or built resources that contribute to the scenic quality of a coastal area? (9)	_____	_____
50. Does the site currently include elements that degrade the area's scenic quality or block views to the water? (9.1)	_____	_____

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Policy Questions cont'd	Yes	No
7. Will the proposed activity require provision of new public services or infrastructure in undeveloped or sparsely populated sections of the coastal area? (1.3)	_____	_____
8. Is the action located in one of the designated Significant Maritime and Industrial Areas (SMIA): South Bronx, Newtown Creek, Brooklyn Navy Yard, Red Hook, Sunset Park, or Staten Island? (2)	_____	_____
9. Are there any waterfront structures, such as piers, docks, bulkheads or wharves, located on the project sites? (2)	_____	_____
10. Would the action involve the siting or construction of a facility essential to the generation or transmission of energy, or a natural gas facility, or would it develop new energy resources? (2.1)	_____	_____
11. Does the action involve the siting of a working waterfront use outside of a SMIA? (2.2)	_____	_____
12. Does the proposed project involve infrastructure improvement, such as construction or repair of piers, docks, or bulkheads? (2.3, 3.2)	_____	_____
13. Would the action involve mining, dredging, or dredge disposal, or placement of dredged or fill materials in coastal waters? (2.3, 3.1, 4, 5.3, 6.3)	_____	_____
14. Would the action be located in a commercial or recreational boating center, such as City Island, Sheephead Bay or Great Kills or an area devoted to water-dependent transportation? (3)	_____	_____
15. Would the proposed project have an adverse effect upon the land or water uses within a commercial or recreation boating center or water-dependent transportation center? (3.1)	_____	_____
16. Would the proposed project create any conflicts between commercial and recreational boating? (3.2)	_____	_____
17. Does the proposed project involve any boating activity that would have an impact on the aquatic environment or surrounding land and water uses? (3.3)	_____	_____
18. Is the action located in one of the designated Special Natural Waterfront Areas (SNWA): Long Island Sound- East River, Jamaica Bay, or Northwest Staten Island? (4 and 9.2)	_____	_____
19. Is the project site in or adjacent to a Significant Coastal Fish and Wildlife Habitat? (4.1)	_____	_____
20. Is the site located within or adjacent to a Recognized Ecological Complex: South Shore of Staten Island or Riverdale Natural Area District? (4.1 and 9.2)	_____	_____
21. Would the action involve any activity in or near a tidal or freshwater wetland? (4.2)	_____	_____
22. Does the project site contain a rare ecological community or would the proposed project affect a vulnerable plant, fish, or wildlife species? (4.3)	_____	_____
23. Would the action have any effects on commercial or recreational use of fish resources? (4.4)	_____	_____
24. Would the proposed project in any way affect the water quality classification of nearby waters or be unable to be consistent with that classification? (5)	_____	_____
25. Would the action result in any direct or indirect discharges, including toxins, hazardous substances, or other pollutants, effluent, or waste, into any waterbody? (5.1)	_____	_____
26. Would the action result in the draining of stormwater runoff or sewer overflows into coastal waters? (5.1)	_____	_____
27. Will any activity associated with the project generate nonpoint source pollution? (5.2)	_____	_____
28. Would the action cause violations of the National or State air quality standards? (5.2)	_____	_____

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Policy Questions cont'd	Yes	No
51. Would the proposed action have a significant adverse impact on historic, archeological, or cultural resources? (10)	_____	_____
52. Will the proposed activity affect or be located in, on, or adjacent to an historic resource listed on the National or State Register of Historic Places, or designated as a landmark by the City of New York? (10)	_____	_____

**D. CERTIFICATION**

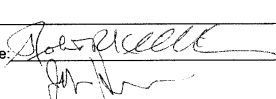
The applicant or agent must certify that the proposed activity is consistent with New York City's Waterfront Revitalization Program, pursuant to the New York State Coastal Management Program. If this certification cannot be made, the proposed activity shall not be undertaken. If the certification can be made, complete this section.

"The proposed activity complies with New York State's Coastal Management Program as expressed in New York City's approved Local Waterfront Revitalization Program, pursuant to New York State's Coastal Management Program, and will be conducted in a manner consistent with such program."

Applicant/Agent Name: Office of the Mayor/New York City Council

Address: 253 Broadway/250 Broadway, New York, NY 10007

Telephone: 212.788.2937/9122

Applicant/Agent Signature:  Date: April 20, 2009  
April 20, 2009

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## ATTACHMENT B

## Proposed Int. No. 21-A

By Council Members Gennaro, Avella, Brewer, Fidler, Foster, Gentile, James, Liu, Mark-Viverito, Martinez, Nelson, Recchia Jr., Sanders Jr., Sears, Weprin, White Jr., Mendez, Yassky, Koppell, Vallone Jr. and Lappin (in conjunction with the Mayor)

## A Local Law

To amend the New York city charter and the administrative code of New York, in relation to developing a comprehensive program for the remediation and reuse of brownfields.

Be it enacted by the Council as follows:

Section 1. This local law shall be known as the "New York city brownfield and community revitalization act".

§2. Section 15 of the New York city charter is amended by adding a new subdivision e to read as follows:

e. There shall be a director of environmental remediation within the office of operations. The director, who shall be appointed by the mayor, shall head the office of environmental remediation and shall have the power and the duty to:

1. in consultation with other city agencies and officials, including the department of health and mental hygiene, as appropriate, plan, establish, coordinate, and oversee city policy regarding the identification, investigation, remediation, and redevelopment of brownfields that is protective of public health and the environment, and supportive of the city's economic development;

2. develop programs for sustainable growth in consultation with the office of long-term planning and sustainability. Such programs shall focus on projects that are consistent with brownfield opportunity area plans and on communities that (i) contain a disproportionate number of brownfield sites, (ii) show indicators of economic distress, including low resident

incomes, high unemployment, high commercial vacancy rates and depressed property values, or (iii) contain brownfield sites that present strategic opportunities to stimulate economic development, community revitalization or the siting of public amenities.

3. identify and catalogue brownfields and potential brownfields;

4. develop and administer a local brownfield cleanup program to facilitate the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

5. develop and administer financial and other incentive programs to encourage public or private entities to identify, investigate, remediate, and redevelop brownfields in support of the city's economic development. The financial incentive program shall give priority to projects that are consistent with brownfield opportunity area plans;

6. promote community participation and community assistance, and provide technical support for community participation, in the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

7. educate and train community groups, developers, and property owners about the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

8. act as intermediary for city agencies and officials, as appropriate, for brownfield matters, including with respect to the state brownfield opportunity area program. The office shall facilitate interactions among city agencies, community based organizations, developers, and environmental experts and assist community based organizations in brownfield redevelopment.

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9. support the efforts of community groups, developers, and property owners to obtain and utilize federal, state, and private incentives to identify, investigate, remediate, and redevelop brownfields;

10. coordinate, partner, and enter into agreements with federal and state agencies and officials and other entities in connection with the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development. Such agreements may include a pledge by a federal or state agency or official that no further action may be taken against a local brownfield site that has been issued a certificate of completion pursuant to chapter nine of title twenty-four of the administrative code;

11. apply for and administer funds for the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

12. advise city agencies and officials regarding the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

13. evaluate and report publicly on progress in the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development;

14. take such other actions as may be necessary to facilitate the identification, investigation, remediation, and redevelopment of brownfields in support of the city's economic development, including the review and acceptance of remedial plans for brownfield redevelopment projects such as city-sponsored affordable housing projects;

15. administer the E-Designation program, as defined in section 11-15 of the zoning resolution of the city of New York, acting as successor to the department of environmental protection for such purpose;

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16. ensure compliance with hazardous waste restrictive declarations arising from the environmental review of land use actions, acting as successor to the department of environmental protection for such purpose;

17. establish fees for programs administered by the office; and

18. promulgate such rules as are necessary to implement the provisions of this subdivision.

§ 3. Chapter 57 of the New York city charter is amended by adding a new section 1404 to read as follows:

§ 1404. Office of environmental remediation. There shall be an office of environmental remediation within the department. The office shall be headed by the director of the office of environmental remediation in accordance with subdivision e of section fifteen of the New York city charter. The office shall exercise such powers and duties as the director shall determine, including, but not limited to, the power and duty to administer the E-Designation program, as defined in section 11-15 of the zoning resolution of the city of New York.

§ 4. Title 24 of the administrative code of the city of New York is amended by adding a new chapter 9 to read as follows:

Chapter 9

Local Brownfield Cleanup Program

§ 24-901 Short Title.

§ 24-902 Definitions.

§ 24-903 Rules for the Local Brownfield Cleanup Program.

§ 24-904 Eligibility.

§ 24-905 Citizen Participation.

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§ 24-906 Certificate of Completion.

§ 24-907 Civil Penalties. § 24-908 Withholding of permits.

§ 24-901 Short Title. This chapter shall be known and may be cited as the "New York city local brownfield cleanup law".

§ 24-902 Definitions. For the purposes of this chapter the following terms shall mean:

"Applicant" shall mean a person who has submitted a request to participate in the local brownfield cleanup program but is not yet an enrollee.

"Certificate of completion" shall mean a written certificate that is issued by the office to an enrollee who has successfully investigated and remediated a local brownfield site to the satisfaction of the office.

"Change of use" shall mean the transfer of title to all or part of a local brownfield site, change in management of a local brownfield site, the erection of any structure on the site, the creation of a park or other public or private recreational facility on the site, or any activity that is likely to disrupt or expose contamination or to increase direct human exposure to contamination; or any other conduct that will or may tend to significantly interfere with an ongoing or completed remedial program at such site and the continued ability to implement the engineering and institutional controls associated with such site.

"Community based organization" shall mean a community based organization as defined in section 970-r of the general municipal law.

"Contaminant" shall mean hazardous waste and/or petroleum.

"Contamination" or "contaminated" shall mean the presence of a contaminant in any environmental media, including soil, surface water, groundwater, air, or indoor air.

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"Declaration of covenants and restrictions" shall mean controls on the use of a site that are listed on the deed and that seek to prevent potential exposure to any residual contamination remaining at the site.

"Delegated brownfield site" shall mean any real property for which state or federal law requires the investigation or remediation, or a portion of an investigation or remediation, to be supervised and/or approved by a state and/or federal agency, but where such state and/or federal agency has expressly authorized in writing that such real property may be investigated and remediated under the city's supervision or according to a mutually agreed-upon form of supervised oversight, subject to any and all appropriate restrictions as may be required by law or agreed to by the parties.

"Director" shall mean the director of the office of environmental remediation.

"Enrollee" shall mean an applicant who has been accepted into the local brownfield cleanup program and has signed a local brownfield cleanup agreement.

"Hazardous waste" shall mean a hazardous waste as defined in section 27-1301 of the environmental conservation law.

"Historic fill material" shall mean non-indigenous material, deposited or disposed of to raise the topographic elevation of real property, which material may have been contaminated prior to emplacement, and is in no way connected with the subsequent operations at the location of the emplacement and which includes, without limitation, construction debris, dredge spoils, incinerator residue, demolition debris, coal ash, fly ash, and non-hazardous waste. "Historic fill material" does not include any material which is chemical production waste or waste from processing of metal or mineral ores, residues, slag or tailings. In addition, historic fill material does not include a municipal solid waste site built after nineteen hundred sixty two.

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"Light to moderate levels of contamination" shall mean detectable levels of contamination, the presence of which does not require an applicant or enrollee to conduct any mandatory, governmental-supervised investigation or remediation of the contamination under any state or federal law.

"Local brownfield site" or "site" shall mean any real property within the city, the redevelopment or reuse of which may be complicated by the presence or potential presence of light to moderate levels of contamination, or any real property that meets the definition of a delegated brownfield site, including, but not limited to, real property containing historic fill material and real property rejected from state programs on grounds that the environmental contamination is not sufficient to warrant state involvement. "Local brownfield site" or "site" shall not include real property: (1) containing discharges of petroleum, except as authorized by the state department of environmental conservation upon agreement with the office or by state law, (2) at the time of application to this program and pursuant to section 27-1305 of the environmental conservation law, listed in the state registry of inactive hazardous waste disposal sites and classified as either (i) causing or presenting an imminent danger of causing irreversible or irreparable damage to the public health or environment—immediate action required, or (ii) significant threat to the public health or environment—action required; (3) listed on the national priorities list pursuant to 42 U.S.C. section 9605; (4) subject to an enforcement action under title seven or nine of article twenty-seven of the environmental conservation law, except a treatment, storage or disposal facility subject to a permit; provided, that nothing herein contained shall be deemed to exclude from the scope of the term "local brownfield site" a hazardous waste treatment, storage or disposal facility having interim status according to regulations promulgated by the state department of environmental conservation; (5) subject to an order for cleanup

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pursuant to article twelve of the navigation law or pursuant to title ten of article seventeen of the environmental conservation law except such property shall not be deemed ineligible if it is subject to a stipulation agreement; or (6) subject to any other on-going city, state or federal environmental enforcement action related to the contamination which is at or emanating from the real property.

“Office” shall mean the office of environmental remediation.

“Participant” shall mean an enrollee who either: (1) was the owner of the local brownfield site at the time of disposal or discharge of contaminants, or (2) is otherwise a person responsible according to applicable principles of statutory or common law liability, unless such person’s liability arises solely as a result of such person’s ownership or operation of or involvement with the site subsequent to the disposal or discharge of contaminants.

“Petroleum” shall mean oil or petroleum of any kind and in any form including, but not limited to, oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other wastes and crude oils, gasoline and kerosene.

“Remedial action work plan” shall mean a written document providing for the development and implementation of a remedial program for contamination within the boundaries of the local brownfield site; provided, however, that a participant shall also be required to provide in the remedial action work plan for the development and implementation of a remedial program for contamination that has emanated from the local brownfield site.

“Remedial investigation report” shall mean a report that fully characterizes the nature and extent of contamination at and/or emanating from a brownfield site.

“Site management” shall mean the management of physical barriers and methods and non-physical means to limit human and environmental exposure to contamination at and/or

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emanating from a site, as well as the implementation of any necessary monitoring, reporting, certification and/or operation and maintenance of a remedy, after the issuance of a certificate of completion.

“Site management plan” shall mean a written document providing for site management.

“Volunteer” shall mean an enrollee other than a participant, including without limitation a person whose liability arises solely as a result of such person’s ownership or operation of or involvement with the local brownfield site subsequent to the disposal or discharge of contaminants, provided, however, that such person exercises appropriate care with respect to contamination found at the site by taking reasonable steps to: (1) stop any continuing release; (2) prevent any threatened future release; and (3) prevent or limit human, environmental, or natural resource exposure to any previously released contamination.

§ 24-903 Rules for the Local Brownfield Cleanup Program. The director shall develop and administer a local brownfield cleanup program and shall promulgate rules to effectuate the provisions of this chapter including, but not limited to, rules:

(a) Prescribing the form for an application to participate in the local brownfield cleanup program and establishing an application review process to ensure that only eligible local brownfield sites, as provided in section 24-904 of this chapter, are accepted into the local brownfield cleanup program.

(b) Prescribing a local brownfield cleanup agreement, including a requirement that the enrollee pay for costs incurred by the city and an indemnification provision holding the city harmless from any claim, suit, action, and cost arising out of or resulting from the fulfillment or attempted fulfillment of the agreement.

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(c) Prescribing requirements for remedial investigation reports, remedial action work plans, and such other reports and work plans as the office shall require, and providing mechanisms for the preparation, submission, review, approval, modification, and rejection of such reports and work plans.

(d) Providing adequate procedures to ensure that remedial action work plans and remedial actions are protective of public health and the environment, and consistent with the current, intended or reasonably anticipated residential, commercial, industrial or other end use of the local brownfield site. Cleanup standards and remedial selection criteria shall be consistent with standards and criteria applicable to the state brownfield cleanup program, including all applicable guidance documents.

(e) Prescribing procedures for citizen participation.

(f) Providing for access by the office or any person so authorized by the office (1) to any real property that has either submitted a request to participate in the local brownfield cleanup program, is enrolled in the local brownfield cleanup program, or has been issued a certificate of completion, for the purpose of ensuring that any applicant, enrollee, or recipient of a certificate of completion complies with the provisions of this chapter or rules promulgated pursuant thereto, including, but not limited to, providing access for the purpose of inspecting and taking samples of contaminants and/or environmental media, and for the purpose of inspecting the adequacy of site management activities; (2) to information relating to any applicant’s or enrollee’s current and past activities concerning contaminants; and (3) to documents relating to the current and past contamination of a local brownfield site.

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(g) Prescribing mechanisms for the office to determine whether the remedial actions are complete and to issue documentation indicating that the remedial actions are complete, including through the issuance of a certificate of completion.

(h) Providing for the issuance of a clean property certification to those properties that have successfully completed the local brownfield cleanup program or other programs equivalent to the local brownfield cleanup program.

(i) Establishing procedures and enforcement mechanisms, including recording of the declaration of covenants and restrictions and notification of the department of buildings and other appropriate agencies of such declaration, to ensure that the owner of the local brownfield site or its successors or assigns continues in full force and effect all institutional and engineering controls required at the site in accordance with the local brownfield cleanup agreement, remedial action work plan, declaration of covenant and restrictions, site management plan, and any other applicable document or plan. The procedures shall include the process for notifying the public regarding compliance with institutional and engineering controls.

(j) Requiring notice to the office of any change of use at a local brownfield site and an opportunity for the office to prohibit such change of use for cause.

§ 24-904 Eligibility. The office shall determine whether to accept or reject an application to participate in the local brownfield cleanup program.

(a) The office shall reject the application if:

(1) the real property does not meet the definition of a local brownfield site as provided in section 24-902 of this chapter;

(2) there is an action or proceeding relating to the local brownfield site against the applicant that is pending in any civil or criminal court in any jurisdiction, or before any city, state

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or federal administrative agency or body, wherein the city, state or federal government seeks penalties or the investigation, removal, or remediation of contamination; or

(3) there is an order against the applicant providing for the investigation, removal, or remediation of contamination relating to the local brownfield site.

(b) The office may reject the application if the office determines that the public interest would not be served by accepting the application.

§ 24-905 Citizen Participation.

(a) The borough president and council member representing the area in which the local brownfield site is located, community board for the district in which the local brownfield site is located, residents living on or immediately adjacent to the local brownfield site, community based organizations, and other appropriate community groups shall be notified upon receipt by the office of the application to participate in the local brownfield cleanup program; before the office finalizes a remedial action work plan or approves a report on remedial action; and before the enrollee commences construction at the local brownfield site.

(b) The office shall provide opportunities for public comment and shall prescribe a procedure for enrollees to make documents available to the public.

§ 24-906 Certificate of Completion.

(a) A certificate of completion shall include (1) a finding that the enrollee has successfully completed the local brownfield cleanup program, (2) a statement that, subject to the provisions of this section and except as provided in the remedial action work plan, site management plan, declaration of covenants and restrictions, or certificate of completion, the city shall not take or require any further investigatory or remedial action against the site and the enrollee, his or her successors, and his or her assigns, regarding the contamination addressed at

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the site, and (3) a recommendation that no other governmental entity take or require any investigatory or remedial action against the site and the enrollee, his or her successors, and his or her assigns, regarding the contamination addressed at the site. The director shall seek to enter into agreements with federal and/or state agencies and other entities that formally recognize cleanups for which a city certificate of completion has been issued, and that stipulate that the federal and/or state agency or other entity does not intend or anticipate taking further actions requiring additional cleanup and investigation for contamination that an enrollee has appropriately addressed under the local brownfield cleanup program, subject to such terms and conditions as may be required by the federal and/or state agency or other entity. Nothing in this section shall in any way be interpreted as a binding legal commitment or obligation on behalf of the director to enter into such an agreement with the federal and/or state agency or other entity for any site enrolled in the local brownfield cleanup program, nor in any way restrict the director's discretion in negotiating the terms and conditions of such an agreement with the federal and/or state agency or other entity.

(b) (1) The city nonetheless shall reserve all of its rights concerning any further investigation and/or remediation the office deems necessary due to:

(i) environmental contamination at, on, under, or emanating from the local brownfield site if, in light of such conditions, the site is no longer protective of public health or the environment; or

(ii) non-compliance with the terms of the local brownfield cleanup agreement, the remedial action work plan, the site management plan, declaration of covenants and restrictions, or the certificate of completion; or

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(iii) fraud committed by the applicant in the application for or by the enrollee during participation in the local brownfield cleanup program; or

(iv) a written finding by the office that a change in an environmental standard, factor, or criterion upon which the remedial action work plan was based, renders the local brownfield site remedial program implemented at the site no longer protective of public health or the environment; or

(v) a change in the local brownfield site's use subsequent to the office's issuance of the certificate of completion unless additional remediation is undertaken as determined by the office, which shall meet the standard for protection of public health and the environment that applies under this chapter.

(2) In the case of a volunteer, subparagraph v of paragraph one of this subdivision shall not apply if the property has been remediated for unrestricted use as provided in section 27-1415 of the environmental conservation law.

(c) The certificate of completion provided pursuant to this section shall run with the land, extending to the enrollee's successors or assigns through acquisition of title to the local brownfield site and to a person who develops or otherwise occupies the local brownfield site; provided, however, that such persons act with due care and in good faith to adhere to the requirements of the local brownfield cleanup agreement, remedial action work plan, site management plan, declaration of covenants and restrictions, and certificate of completion. The certificate of completion does not extend, and cannot be transferred, to a person who is responsible for the disposal or the discharge of contaminants on the local brownfield site according to applicable principles of statutory or common law liability as of the effective date of

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the certification of completion issued pursuant to this chapter, unless that person was party to the local brownfield cleanup agreement for the local brownfield site.

(d) The provisions of this section shall not affect an action or a claim, including a statutory or common law claim for contribution or indemnification, that an enrollee has or may have against a third party.

(e) Nothing in this section shall be construed to affect the liability of any person with respect to any costs, damages, or investigative or remedial activities that are not included in the local brownfield cleanup agreement, or remedial action work plan for the local brownfield site.

§ 24-907 Civil Penalties.

Any applicant, enrollee, or recipient of a certificate of completion who misrepresents any material fact related to the investigation, remediation or site management of a local brownfield site shall be liable for a civil penalty of not more than twenty-five thousand dollars. Such civil penalty may be recovered in a proceeding before the environmental control board. Such proceeding shall be commenced by the service of a notice of violation returnable before the environmental control board.

§ 24-908 Withholding of permits.

Where the office has determined that the owner of a local brownfield site or its successors or assigns has failed to continue in full force and effect all institutional and engineering controls required at such site in accordance with any applicable document or plan, it shall notify the department of buildings of such failure and the department of buildings shall withhold the issuance of permits from such site.

§ 5. This local law shall take effect immediately.

2285516 EH/SA

- 15 -

JAMES F. GENNARO, Chairperson; BILL DEBLASIO, G. OLIVER KOPPELL, PETER F. VALLONE JR., MELISSA MARK-VIVERITO, THOMAS WHITE JR., MATHIEU EUGENE, ELIZABETH CROWLEY, ERIC A. ULRICH, Committee on Environmental Protection, April 22, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

### Reports of the Committee on Finance

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Finance and have been favorably reported for adoption.

Report for Res. No. 1934

#### **Report of the Committee on Finance in favor of approving a Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2008 and Fiscal 2009 Expense Budgets.**

The Committee on Finance, to which was referred on April 22, 2009 the annexed resolution, respectfully

#### **REPORTS:**

##### **I Introduction**

On April 21, 2009, the Committee on Economic Development, chaired by Council Member Thomas White Jr., held a hearing on Preconsidered Res. No. 1934, a Resolution supporting New York City's application for funding for capital projects under the Restore New York Community Initiative pursuant to the New York State Urban Development Act, for Arverne East, in the borough of Queens, and Bush Terminal, in the borough of Brooklyn. (Preconsidered Res. No 1934 is annexed).

##### **II Background**

The Restore New York's Communities Initiative (Restore New York), pursuant to the New York State Urban Development Act, encourages economic development and neighborhood growth by providing municipalities with financial assistance for revitalization of commercial and residential properties. The Empire State Development Corporation (ESDC) is the entity responsible for implementing this grant program. Cities, towns and villages across the State will be able to compete for funding to aid in the demolition, deconstruction, rehabilitation and/or reconstruction of vacant, abandoned, condemned and surplus properties.

Restore New York places a strong emphasis on projects in economically distressed communities. Applications for Round 3 financing under the Restore New York program are due May 4, 2009. In Round 3 the City of New York is eligible to submit two project proposals with a funding request of up to \$10 million each.

##### **II Arverne East**

One of the projects the City of New York is submitting for funding through Restore New York is located in the Arverne Urban Renewal Area (URA) in Queens Community Board 14. The Department of Housing Preservation and Development (HPD) is redeveloping portions of the Arverne URA located in the Rockaway Peninsula in Queens.

Once used as a beach resort for the affluent, the Victorian mansions at Arverne were replaced with bungalows that were accessible to the middle class in the 1930's and 1940's. As the bungalows' appeal declined, so did the environs, and the City eventually declared 308 acres of Arverne an Urban Renewal Area (URA). Although designated an URA in 1964 and cleared by the City in 1971, the vast majority of Arverne remains undeveloped.

The eastern section of the Arverne URA, bordered to the south by the Atlantic Ocean, currently consists of predominantly overgrown land with remnants of the former bungalow community. This swath of land is arguably one of the most underutilized brownfields in the City's inventory. Several past project proposals have failed to come to fruition, resulting in lost opportunity, instability, and economic distress for the surrounding areas.

The 2000 Census showed that for CB 14, the individual poverty rate of 19.14% was more than 130% of the state average, with an unemployment rate of 13.17%. Additionally, in 2007 one third of the CB 14 population received some form of income support (e.g.; Medicaid, Supplemental Security Income). The project site is also located within the Far Rockaway Empire Zone, on Block 15859, Lot 1; Block 15860, Lot 1; and Block 15861, Lot 1 on the south side of Edgemere Avenue between Beach 32<sup>nd</sup> and Beach 34<sup>th</sup> Street.

The City of New York is seeking funding for infrastructure, site work and the reconstruction of 103 2-family homes, each with an owner-occupied unit and a rental unit, as part of Arverne East Phase 1A, which has a total project budget of \$58 million. Construction of these first 206 dwelling units is expected to begin in fiscal year 2010. The developers are applying for New York State Affordable Housing Corporation (AHC) funds and will secure private bank financing with a commitment of \$9 million of equity (partially deferred) to the project.

Once completed, the homes will be offered through a lottery process to individuals/families in accordance with the New York State Affordable Housing Corporation (AHC) income restrictions and a Homeowners Association will be formed. The developers will receive a fixed-fee for developing the project in accordance with AHC and HPD requirements. A land lien and any city, state or other subsidy will be subordinated into an enforcement note and mortgage. Should the purchaser choose to sell or refinance within fifteen years, certain recapture/repayment restrictions would apply to the subordinate lien. In the first five years, the lien remains constant, and 100% of the profit or cash out of a refinancing goes towards paying off the lien. During years 6 through 15, the lien payment requirement decreases by 10% each year until it evaporates in year 15.

All environmental reviews necessary, including the Final Environmental Impact Statement, CEQR, and SHPO have all been completed. A preference toward utilizing Minority-and Women-owned businesses and local hiring will be given.

The project is part of a larger system of development, known as Arverne East, which consists of approximately 81.5 acres of land located between Beach 32<sup>nd</sup> and Beach 44<sup>th</sup> Streets. The Arverne East development advances the objectives of the local revitalization plan by restoring a portion of Arverne from Brownfield back into a vibrant beachfront community. As a critical component of the Mayor's New Housing Marketplace Plan, Arverne East will provide up to 1600 new dwelling units – most of which will be quality affordable housing. Arverne East will have up to 400,000 square feet of commercial space - including shops, restaurants, a supermarket, and entertainment opportunities. Retail users will be served by the two transit stations on site, as well as approximately 1000 public parking spaces. In addition to bringing retail opportunities to a community that has long been underserved, the commercial component will create approximately 2000 permanent jobs. The proposed vibrant, mixed-use neighborhood will also include a variety of community parks, community facilities, and a 35-acre beachfront preserve.

##### **III Bush Terminal**

The Bush Terminal Campus (the Campus) is located in Sunset Park, Brooklyn and is bounded by 41st Street, First Avenue, 52nd Street and the Gowanus Bay. It is part of an urban neighborhood with high economic stress. The Campus has played a role as a sanctuary for industrial businesses that have been forced out of higher priced locations such as Manhattan, Queens and other parts of Brooklyn. In addition, the Campus falls within several Federal, State and Local special zones that make it eligible for a variety of financial incentives. The Campus is a New York State Brownfield Opportunity Area and is located in a New York State Empire Zone, as well as a Federal New Market Tax Credit eligible area, and is part of the local South West Brooklyn Industrial Business Zone.

Since 2001 New York City Economic Development Corporation has directly managed the 10 properties totaling 1.2 million square feet on 32 acres of land. These properties support over 400 industrial-related jobs currently. The campus and buildings need significant investment in order to continue operating in the medium and long-term. Current rent levels are quite low. Operating expenses are artificially high as a result of deferred maintenance resulting from the prior operator's lack of upkeep of these assets.

One of the City's key strategies at Bush Terminal is to provide modern industrial space that businesses need to be competitive in New York City. Buildings 39/40 and 45 are largely obsolete industrial buildings totaling 37,100 square feet. They are situated on a 130,000 square foot site (the Site) in the center of the Bush Terminal campus. The Site is zoned to accommodate 260,000 square feet of light industrial space which provides for an opportunity to bring a new modern industrial building to the campus.

Interest in the Site has been expressed by several large industrial owners/operators. The New York City Economic Development Corporation (EDC) is seeking \$10 million to demolish the existing underutilized buildings and contribute to the redevelopment of a new modern industrial building. These funds will be put toward the demolition of existing buildings, asbestos removal, and upgrades of power, water and sewer infrastructure and construction of the new building. The infrastructure upgrades are particularly critical to attract private industry to the site. Providing new development opportunities will further increase job density in the campus and foster growth of certain businesses that might have moved out of New York City due to unsuitable industrial real estate stock.

Accordingly, the Committee recommends its adoption.

**(The following is the text of Res. No. 1934:)**

Res. No. 1934

**Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2008 and Fiscal 2009 Expense Budgets.**

By Council Member Weprin.



**Whereas**, On June 29, 2008, the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2009 with various programs and initiatives (the "Fiscal 2009 Expense Budget"); and

**Whereas**, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2009 Expense Budget by approving the new designation and changes in the designation of certain organizations receiving local, aging and youth discretionary funding, and by approving the addition of fiscal conduits for certain organizations receiving funding pursuant to certain initiatives in accordance therewith; and

**Whereas**, On June 15, 2007, the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2008 with various programs and initiatives (the "Fiscal 2008 Expense Budget"); and

**Whereas**, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2009 Expense Budget by approving the new designation and changes in the designation of certain organizations receiving funding pursuant to certain initiatives in accordance therewith; and be it

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding as set forth in Chart 1, attached hereto as Exhibit A; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving aging discretionary funding as set forth in Chart 2, attached hereto as Exhibit B; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving youth discretionary funding as set forth in Chart 3, attached hereto as Exhibit C; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural After School Adventure Initiative, as set forth in Chart 4, attached hereto as Exhibit D; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Immigrant Opportunity Initiative, as set forth in Chart 5 attached hereto as Exhibit E; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Domestic Violence and Empowerment (DoVE) Initiative, as set forth in Chart 6, attached hereto as Exhibit F; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Adult Literacy Initiative, as set forth in Chart 7, attached hereto as Exhibit G; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Food Pantries Initiative, as set forth in Chart 8, attached hereto as Exhibit H; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the HIV/AIDS Faith Based Initiative, as set forth in Chart 9, attached hereto as Exhibit I; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Dropout Prevention and Intervention Initiative, as set forth in Chart 10, attached hereto as Exhibit J; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Alcoholism/Substance Abuse Initiative, as set forth in Chart 11, attached hereto as Exhibit K; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Adult Literacy Initiative, as set forth in Chart 12, attached hereto as Exhibit L; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Adult Literacy Initiative, as set forth in Chart 13, attached hereto as Exhibit M; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Space Costs for Senior Centers Initiative, as set forth in Chart 14, attached hereto as Exhibit N; and be it further

**Resolved**, That the City Council approves the changes in the designation of an organization receiving funding pursuant to the Transportation Costs Initiative, as set forth in Chart 15, attached hereto as Exhibit O; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Healthy Aging Initiative, as set forth in Chart 16, attached hereto as Exhibit P; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Information and Referral Contracts Initiative, as set forth in Chart 17, attached hereto as Exhibit Q; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Housing Preservation Initiative, as set forth in Chart 18, attached hereto as Exhibit R; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Comprehensive Podiatric Medical Screening Initiative, as set forth in Chart 19, attached hereto as Exhibit S; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Autism Awareness Initiative, as set forth in Chart 20, attached hereto as Exhibit T; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the NYA Street Outreach Initiative, as set forth in Chart 21, attached hereto as Exhibit U; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Community Consultants Initiative, as set forth in Chart 22, attached hereto as Exhibit V; and be it further

**Resolved**, That the City Council approves the Initiative Fund Transfer between the Transportation Costs Initiative and the Spaces Costs for Seniors Initiative, as set forth in Chart 23, attached hereto as Exhibit W; and be it further

**Resolved**, That the City Council approves the new designation of certain organizations receiving funding pursuant to the HIV/AIDS Communities of Color Initiative, as set forth in Chart 24.

**Resolved**, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Anti-Gang Initiative of the Fiscal 2008 Expense Budget, as set forth in Chart 25, attached hereto as Exhibit Y; and be it further

**Resolved**, That the City Council approves the new designation of Empire State Coalition of Youth and Family Services within the Homeless and Runway Youth Population Count Initiative of the Fiscal 2008 Expense Budget, as set forth in Chart 26, attached hereto as Exhibit Z.

ATTACHMENT:

EXHIBIT A

CHART 1: Local Initiatives

Table with columns: Member, Organization, EIN Number, Agency, Amount, Agency #, UIA, Fiscal Conduit/Sponsoring Organization, Fiscal Conduit EIN, Status (Council, MCC, etc).

\* Indicates pending completion of pre-qualification review.

CHART 1: Local Initiatives (continued)

Continuation of CHART 1 table, listing members like Monarchs, Fenozas, Seabrook, etc.

\* Indicates pending completion of pre-qualification review.

CHART 1: Local Initiatives (continued)

Continuation of CHART 1 table, listing members like Valencas Jr, Foster, Foster, etc.

\* Indicates pending completion of pre-qualification review.

CHART 1: Local Initiatives (continued)

Member	Organization	EIN Number	Agency	Amount	Agry #	UIA	Fiscal Condition/Sponsoring Organization	Fiscal Condition EIN	Status (Council, MOC, etc)
Sanders, Jr. ON	Metropolitan Eagles Sports Club	11-3110873	DYCD	(\$4,850.00)	260	312			Application Incomplete by Deadline
Sanders, Jr. ON	Southern Queens Park Association, Inc.	11-2432446	DYCD	\$4,850.00	260	312			Approved
Sanders, Jr.	Mount Carmel Baptist Church	01-2400734	DYCD	(\$3,500.00)	260	312			Application Incomplete by Deadline
Sanders, Jr.	Samaritanas Outreach Ministries, Inc.	11-3233359	DYCD	\$3,500.00	260	312			Application Pending

# EXHIBIT B

CHART 2: Aging Discretionary

Member	Organization	EIN Number	Agency	Amount	Agry #	UIA	Fiscal Condition/Sponsoring Organization	Fiscal Condition EIN	Status (Council, MOC, etc)
Odio	St. Fabian's Golden Age Club	11-1831812	DFTA	(\$4,500.00)	125	003	American-Italian Coalition of Organizations, Inc. (AMICO)	11-2488439	Application Incomplete at Deadline
Odio	Meals on Wheels of Staten Island, Inc.	13-2384976	DFTA	\$4,500.00	125	003			Approved
Adabbo	Forward Began Senior Center	23-7187548	DFTA	(\$5,000.00)	125	003			Approved
Adabbo	Inc. - Howard Beach Senior Center	23-7287548	DFTA	\$5,000.00	125	003			Approved
Dufilaso	American-Italian Coalition of Organizations, Inc.	11-2488439	DFTA	(\$5,000.00)	125	003			Approved
Gerrille	AMICO - Extended Services Program	11-2488439	DFTA	(\$1,500.00)	125	003	Saint Rosalia Regina Pacis Neighborhood Improvement Association	11-2897931	Approved
Gerrille	AMICO - 55th Street Senior Citizens Center	11-2488439	DFTA	(\$1,500.00)	125	003	Saint Rosalia Regina Pacis Neighborhood Improvement Association	11-2897931	Approved
Dufilaso	American-Italian Coalition of Organizations, Inc.	11-2488439	DFTA	(\$1,200.00)	125	003			Approved
Gerrille	AMICO	11-2488439	DFTA	\$5,000.00	125	003			Approved
Gerrille	AMICO - 55th Street Senior Citizens Center	11-2488439	DFTA	\$1,200.00	125	003	Saint Rosalia Regina Pacis Neighborhood Improvement Association	11-2897931	Approved
Gerrille	AMICO - 55th Street Senior Citizens Center	11-2488439	DFTA	\$1,200.00	125	003	Saint Rosalia Regina Pacis Neighborhood Improvement Association	11-2897931	Approved
Eugenne	AMICO - 55th Street Senior Citizens Center	11-2488439	DFTA	(\$10,000.00)	125	003			Application Incomplete at Deadline
Eugenne	United Relief Association, Inc.	11-2709452	DFTA	\$10,000.00	125	003			Approved
Eugenne	Metropolitan New York Coordinating Council on Jewish Family Life	13-2798818	DFTA	\$10,000.00	125	003			Approved
DiStasio	Manhattan Borough Council for the Aged, Inc.	13-3317271	DFTA	(\$5,000.00)	125	003			Approved
Dickens	Manhattan Borough Wide Intergency Council on Aging, Inc.	13-3438260	DFTA	\$5,000.00	125	003			Approved
Genaro	Jewish Community Council of Kew Gardens and Forest Hills	11-2488439	DFTA	(\$10,000.00)	125	003			Approved
Genaro	Tombich Shabbos of Queens (TSQ), Inc.	11-2635305	DFTA	(\$3,500.00)	125	003			Approved
Gaudinich	Midtown East-Shyveasant (CERT)	20-8415443	DFTA	(\$3,500.00)	125	003			Approved
Chandrick	Citizen Committee for New York City, Inc. - Midtown East-Shyveasant (CERT)	11-2488439	DFTA	\$3,500.00	125	003			Approved
Palma	High Rise Jewish Center	11-2488439	DFTA	(\$12,000.00)	125	003			Application Pending
Palma	Mecheril Hall Senior Center, Inc.	13-7421652	DFTA	\$12,000.00	125	1203			Cleared

\* Indicates pending completion of pre-qualification review.

# EXHIBIT C

EXHIBIT D

CHART 3: Youth Discretionary

Table with columns: Member, Organization, EIN Number, Agency, Amount, Agy #, U/A, Fiscal Conduit/Sponsoring Organization, Fiscal Conduit EIN, Status (Council, MOC, etc), Application (Complete at, etc). Lists various organizations like Little Sheppard's Community Center, Inc. and their funding details.

\* Indicates pending completion of pre-qualification review.

CHART 3: Youth Discretionary (continued)

Continuation of CHART 3 table, listing organizations like Unity in the Community Sports Foundation, Inc. and their funding details.

\* Indicates pending completion of pre-qualification review.

CHART 4: Cultural After School Adventure (CASA)

Table with columns: Member, Organization, EIN Number, Agency, Amount, Agy #, U/A, Status (Council, MOC, etc), Application (Complete at, etc). Lists schools like Walker Memorial Baptist Church-Grand Concourse Academy Charter and their funding details.

\* Indicates pending completion of pre-qualification review.

# EXHIBIT E

CHART 5: Immigrant Opportunities Initiative

Borough	Organization	EIN Number	Agency	Amount	Agy #	U/A *	Status (Council, MOC, etc)
Brooklyn	Church of God of East Flatbush	11-2939348	DYCD	(\$25,000.00)	260	005	* Application Incomplete at Deadline
Brooklyn	Friends of Crown Heights Educational Center	11-2305641	DYCD	\$25,000.00	260	005	Approved
Queens	Metropolitan New York Coordinating Council on Jewish Poverty, Inc.	13-2738818	DYCD	(\$7,500.00)	260	005	Approved
Brooklyn	Metropolitan New York Coordinating Council on Jewish Poverty, Inc.	13-2738818	DYCD	(\$21,000.00)	260	005	Approved
Queens	Flushing Jewish Community Council**	11-2669559	DYCD	\$7,500.00	260	005	* Application Pending
Brooklyn	Edith and Carl Marks Jewish Community House of Bensonhurst**	11-1633484	DYCD	\$15,000.00	260	005	Approved
Brooklyn	United Jewish Organizations (UJO) of Williamsburg**	11-2728233	DYCD	\$6,000.00	260	005	Approved
Brooklyn	Church Avenue Merchants Block Association (CAMBA)	11-2480339	DYCD	(\$30,000.00)	260	005	Approved
Staten Island	Central Family Life Center	13-3626127	DYCD	(\$25,000.00)	260	005	* Application Not Rec'd at Deadline
Staten Island	St. Stanislaus Kostka Church	13-5564133	DYCD	\$25,000.00	260	005	Approved
				\$0.00			

\* Indicates pending completion of pre-qualification review.

\*\*Indicates Metropolitan New York Coordinating Council on Jewish Poverty is acting as the fiscal conduit

CHART 6: Domestic Violence Empowerment (DoVE) Initiative

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A *	Status (Council, MOC, etc)
Dilan	St. Rita's Roman Catholic Church	11-1711002	MISC	(\$75,000.00)	098	002	* Application Pending
Dilan	District Attorney-Brooklyn	13-8400434	MISC	\$75,000.00	098	002	Government Entity
Mealy	Brownsville Community Development Corporation (dba BMS Family Health Center) (BMSFHC)	11-2544630	MISC	(\$18,750.00)	098	002	Approved
Mealy	Jericho Road, Inc.	11-3463615	MISC	(\$18,750.00)	098	002	* Application Pending
Mealy	Metropolitan New York Coordinating Council on Jewish Poverty, Inc.	13-2738818	MISC	\$37,500.00	098	002	Approved
McMahon	El Centro de Hospitalidad	13-3234441	MISC	(\$26,250.00)	098	002	Approved
McMahon	El Centro de Hospitalidad	13-4178608	MISC	\$26,250.00	098	002	Approved
				\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT F

# EXHIBIT G

CHART 7: Adult Literacy

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc)
Brooklyn	Flatbush Haitian Center, Inc.**	11-2758014	DYCD	(\$10,000.00)	260	005	Application Incomplete at Deadline
Brooklyn	Council of Peoples Organization**	75-3046801	DYCD	\$10,000.00	260	005	Approved
Queens	Centro Hispano Cuzcatlan, Inc.	11-3559496	DYCD	(\$30,652.38)	260	005	Application Incomplete at Deadline
Queens	Central Queens YM & YWHA, Inc.	11-1633509	DYCD	\$7,738.10	260	005	Approved
Queens	Jacob A. Riis Neighborhood Settlement House, Inc.	11-1729398	DYCD	\$7,738.10	260	005	Approved
Queens	New Immigrant Community Empowerment (NICE)	11-3560625	DYCD	\$7,738.09	260	005	Approved
Queens	Southern Queens Park Association, Inc.	11-2432846	DYCD	\$7,738.09	260	005	Approved
				\$0.00			

\* Indicates pending completion of pre-qualification review.

\*\*Indicates Host Outreach

# EXHIBIT H

CHART 8: Food Pantries

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc)
Advent Lutheran Church	13-1635264	DYCD	(\$5,000.00)	260	005	Approved
Evangelical Lutheran Church of the Advent	11-2500161	DYCD	\$5,000.00	260	005	Approved
Bethel SHARING Ministries	11-2500161	DYCD	\$10,000.00	260	005	Approved
Bethel Seventh Day Adventist Church	11-2500161	DYCD	\$10,000.00	260	005	Approved
Eben-Ezer Haitian Baptist Church	11-2811215	DYCD	\$10,000.00	260	005	Approved
Eben-Ezer Haitian Baptist Church	11-2811215	DYCD	\$10,000.00	260	005	Approved
Iglesia Pentecostal Arca De Salvacion	11-3260467	DYCD	\$10,000.00	260	005	Approved
Iglesia Pentecostal Arca De Salvacion	13-2684850	DYCD	\$10,000.00	260	005	Approved
Mariners' Temple Baptist Church	11-2694850	DYCD	(\$5,000.00)	260	005	Approved
Mariners' Temple Baptist Church	11-2694850	DYCD	(\$5,000.00)	260	005	Approved
Price Memorial Baptist Church	31-1762555	DYCD	(\$5,000.00)	260	005	Approved
Price Memorial Baptist Church	31-1762555	DYCD	(\$5,000.00)	260	005	Approved
Project ORE		DYCD	(\$5,000.00)	260	005	Approved
Educational Alliance	13-5662210	DYCD	\$5,000.00	260	005	Approved
Queen of All Saints Church/Fort Greene Food Pantry	11-1657620	DYCD	\$10,000.00	260	005	Approved
Queen of All Saints Church/Fort Greene Food Pantry	11-1672602	DYCD	\$10,000.00	260	005	Approved
St. Mary's Episcopal Church	76-0424498	DYCD	\$10,000.00	260	005	Approved
St. Mary's Episcopal Church	11-3696619	DYCD	\$10,000.00	260	005	Approved
St. Theresa of Avila	11-1667624	DYCD	\$10,000.00	260	005	Approved
St. Theresa of Avila - Human Services	13-3823013	DYCD	(\$5,000.00)	260	005	Approved
Stratford Arms Community Council	96-0140023	DYCD	\$5,000.00	260	005	Approved
Stratford Arms Meals Program	11-2416188	DYCD	\$10,000.00	260	005	Approved
Zion Shabbat Baptist Church	11-2911165	DYCD	\$10,000.00	260	005	Approved
Zion Shabbat Baptist Church	11-2911165	DYCD	\$5,000.00	260	005	Approved
Zion Temple Apostolic Faith for all People	11-2383972	DYCD	\$5,000.00	260	005	Approved
New Day Christian Fellowship Church of Apostolic Faith	11-2383972	DYCD	\$5,000.00	260	005	Approved
Hanson Place Seventh Day Adventist Church - Community Service Pantry	11-3260387	DYCD	(\$10,000.00)	260	005	Application Incomplete at Deadline
Hanson Place Seventh Day Adventist Church - Community Service Food Kitchen	11-3260387	DYCD	(\$10,000.00)	260	005	Application Incomplete at Deadline
New Life Tabernacle Church	11-3168615	DYCD	\$10,000.00	260	005	Application Incomplete at Deadline
Child Development Support Corporation	11-2395258	DYCD	\$30,000.00	260	005	Approved
			\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT I

# EXHIBIT J

CHART 9: HIV/AIDS Faith Based Initiative

Organization	EIN Number	Agency	Amount	Agy #	UJA	Status (Council, MOC, etc)
National Black Leadership Commission on AIDS, Inc. - AIDS Center of Queens County, Inc.	13-3530740	DOHMH	(\$12,944.00)	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - Staten Island HIV/AIDS Care Network	13-3530740	DOHMH	(\$6,472.00)	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - Young Women of Color HIV/AIDS Coalition	13-3530740	DOHMH	(\$32,360.00)	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - Caribbean Women's Health Association	13-3530740	DOHMH	\$3,236.00	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - JAFASI	13-3530740	DOHMH	\$3,236.00	816	112	Approved
Womens HIV Collaborative of New York	20-3115379	DOHMH	\$45,304.00	816	112	Approved
Latino Commission on AIDS, Inc. - Beulah Baptist Church	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
Latino Commission on AIDS, Inc. - Coney Island Cathedral	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
Latino Commission on AIDS, Inc. - First Calvary Baptist	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
Latino Commission on AIDS, Inc. - Grace Baptist Church	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
Latino Commission on AIDS, Inc. - Mosque of Islam Brotherhood	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
Latino Commission on AIDS, Inc. - Pilgrim Cathedral of Harlem/500	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
Latino Commission on AIDS, Inc. - St. Albans Congregational Church	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
Latino Commission on AIDS, Inc. - United Community Baptist Church	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - Beulah Baptist Church	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - First Calvary Baptist	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - Grace Baptist Church	13-3629446	DOHMH	(\$6,472.00)	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - Mosque of Islam Brotherhood	13-3629446	DOHMH	\$1,472.00	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - Pilgrim Cathedral of Harlem/500	13-3629446	DOHMH	\$6,472.00	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - St. Albans Congregational Church	13-3629446	DOHMH	\$6,472.00	816	112	Approved
National Black Leadership Commission on AIDS, Inc. - United Community Baptist Church	13-3629446	DOHMH	\$6,472.00	816	112	Approved
National Black Leadership Commission on AIDS, Inc.	13-3629446	DOHMH	\$11,472.00	816	112	Approved
			\$0.00			

\* Indicates pending completion of pre-qualification review.

CHART 10: Dropout Prevention and Intervention Initiative

Organization	EIN Number	Agency	Amount	Agy #	UJA	Status (Council, MOC, etc)
Asociacion Tepeyac De New York	13-4039830	DOE	(\$75,000.00)	040	454	Application Not Rec'd by
El Puente de Williamsburg	11-2614269	DOE	\$75,000.00	040	454	Deadline
			\$0.00			Approved

\* Indicates pending completion of pre-qualification review.

# EXHIBIT K

CHART 11: Alcoholism/Substance Abuse

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc.)
Peninsula Hospital Center	11-6037195	DOHMH	(\$37,228.00)	816	122	Cleared
National Association on Drug Abuse Problems, Inc.	13-3185808	DOHMH	\$37,228.00	816	122	Cleared
			\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT L

CHART 12: Infant Mortality Reduction

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc.)
Visiting Nurse Service of New York	13-3789929	DOHMH	(\$26,101.13)	816	113	Approved
Visiting Nurse Service of New York Home Care, Inc.	13-1624211	DOHMH	\$26,101.13	816	113	Approved
New Dimensions in Care	11-3387105	DOHMH	(\$19,586.25)	816	113	Denied
Bronx Health Link	13-4046022	DOHMH	\$19,586.25	816	113	Approved
			\$0.00			

\* Indicates pending completion of pre-qualification review.



# EXHIBIT M

CHART 13: Geriatric Mental Health Initiative

Organization	EIN Number	Agency	Amount	Agcy #	U/A	Status (Council, MOC, etc.)
Visiting Nurse Services of New York	13-3189923	DOHMH	(\$85,000.00)	816	120	Approved
Visiting Nurse Services of New York Home Care, Inc.	13-1624211	DOHMH	\$85,000.00	816	120	Approved
Forham-Tremont Community Mental Health Center	13-1740122	DOHMH	(\$85,000.00)	816	120	Approved
St. Barnabas Hospital	13-1740122	DOHMH	\$85,000.00	816	120	Approved
			\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT N

CHART 14: Space Costs for Senior Centers

Organization	EIN Number	Agency	Amount	Agcy #	U/A	Status (Council, MOC, etc.)
Manhattan Valley Golden Age Senior Center, Inc.	13-2751935	DFTA	(\$27,000.00)	125	003	Application Incomplete at Deadline
Synhardic Multi Service Senior Citizens Center, Inc.	11-2301220	DFTA	(\$4,000.00)	125	003	Application Incomplete at Deadline
Institute for the Puerto Rican/Hispanic Elderly, Inc. - Corona Senior Center	13-2987263	DFTA	\$31,000.00	125	003	Approved
Southeast Queens Multiservice Senior Center - Howard Beach	23-7187548	DFTA	(\$4,202.00)	125	003	Approved
Southeast Queens Multiservice Senior Citizens Center, Inc. - Howard Beach	23-7287548	DFTA	\$4,202.00	125	003	Approved
Police Athletic League, Inc. - Foster Laurie Senior Center	13-5596811	DFTA	\$7,481.30	125	003	Approved
Police Athletic League, Inc. - Foster Laurie Senior Center	13-5596811	DFTA	\$7,481.30	125	003	Approved
			\$14,962.60			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT O

CHART 15: Transportation Costs

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc.)
Allen A.M.E. Neighborhood Preservation and Development Corp.	11-2705085	DFTA	(\$7,481.30)	125	003	Application Not Rec'd by Deadline
Allen A.M.E. Neighborhood Preservation and Development Corp.	11-2705085	DFTA	(\$7,481.30)	125	003	Application Not Rec'd by Deadline
			(\$14,962.60)			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT P

CHART 16: Healthy Aging

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc.)
Southwest Queens Multiservice Senior Center - Howard Beach Senior Center	23-7187548	DFTA	(\$30,000.00)	125	003	Approved
Southwest Queens Multiservice Senior Citizens Center, Inc. - Howard Beach Senior Center	23-7287548	DFTA	\$30,000.00	125	003	Approved
American-Italian Coalition of Organizations, Inc. (AMICO)	11-2646533	DFTA	(\$30,000.00)	125	003	Approved
American-Italian Coalition of Organizations, Inc. (AMICO)	11-2646533	DFTA	\$30,000.00	125	003	Approved
			\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT Q

CHART 17: Information and Referral Contracts

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc.)
American-Italian Coalition of Organizations, Inc. (AMICO) - Extended Service Program	11-2488438	DFTA	(\$140,036.59)	125	003	Approved
American-Italian Coalition of Organizations, Inc. (AMICO) - Extended Service Program	11-2649513	DFTA	\$140,036.59	125	003	Approved
			\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT R

CHART 18: Housing Preservation Initiative

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc.)
New Settlement Apartments Crenulated Company, The	23-7078852	HPD	(\$50,000.00)	806	009	Application Not Rec'd by Deadline
	14-1719018	HPD	\$50,000.00	806	009	Approved
			\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT S

CHART 19: Comprehensive Podiatric Medical Screening

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc.)
Harlem Hospital Center - Hip Hop Stroke Program	13-3092676	DOHMH	(\$250,000.00)	816	113	Governmental Entity
Lincoln Medical and Mental Health Center	13-3040671	DOHMH	(\$50,000.00)	816	113	Governmental Entity
Queens Hospital Center	13-2655001	DOHMH	(\$50,000.00)	816	113	Governmental Entity
Harlem Hospital Center - Hip Hop Stroke Program	13-3092676	HHC	\$250,000.00	819	001	Governmental Entity
Lincoln Medical and Mental Health Center	13-3040671	HHC	\$50,000.00	819	001	Governmental Entity
Queens Hospital Center	13-2655001	HHC	\$50,000.00	819	001	Governmental Entity
			\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT T

CHART 20: Autism Awareness

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc.)
Eden II School for Autistic Children, Inc.	13-2872918	DOHMH	(\$50,000.00)	816	121	Application Incomplete at Deadline
Samuel Field YM & YWHA, Inc.	11-3071518	DOHMH	\$50,000.00	816	121	Approved
			\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT U

CHART 21: NYA Street Outreach

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc.)
Brooklyn Center for the Urban Environment	11-2698671	DOHMH	(\$8,754,668)	816	121	Application Incomplete at Deadline
City Parks Foundation	13-3561657	DOHMH	(\$8,754,668)	816	121	Approved
			\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT V

CHART 22: Community Consultants

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc.)
Upper Manhattan Council/Assisting Neighbors	13-4021993	HPD	(\$11,637,000)	806	009	Denied
Brox Heights Neighborhood Community Corporation	13-2883903	HPD	(\$19,200,228)	806	009	Application Incomplete at Deadline
Community League of the Heights, Inc.	13-2564241	HPD	\$11,637,000	806	009	Approved
Belmont Arthur Avenue Local Development Organization	13-3020888	HPD	\$19,200,228	806	009	Approved
			\$0.00			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT W

CHART 23: Initiative Funding Transfer

Initiative	Agency	Amount	Agy #	U/A
Transportation Costs	DFTA	(\$14,962.00)	125	003
Space Costs for Senior Centers	DFTA	\$14,962.00	125	003
		\$0.00		

\* Indicates pending completion of pre-qualification review.

# EXHIBIT X

CHART 24: HIV/AIDS Communities of Color

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	* status (Council, MOC, etc)
Bronx	Bronx Community Pride Center, Inc.	06-1552851	DOHMH	\$48,540.00	816	112	Application Not Rec'd by
Bronx	New York Harm Reduction Educators, Inc.	13-3678498	DOHMH	\$36,369.14	816	112	Deadline
Bronx	Vocational Instruction Project Community Services, Inc.	13-3224700	DOHMH	\$36,369.14	816	112	Application Not Rec'd by
Bronx	Bronx Addiction Services Integrated Concepts Systems, Inc. (BASICS)	13-3244628	DOHMH	\$36,369.14	816	112	Deadline
Bronx	Osborne Association, Inc., The	13-5563028	DOHMH	\$36,369.14	816	112	Application Not Rec'd by
Bronx	Health People, Inc.	51-0418243	DOHMH	\$36,369.14	816	112	Deadline
Brooklyn	Bedford Stuyvesant Family Health Center, Inc.	11-2412205	DOHMH	\$36,369.14	816	112	Approved
Brooklyn	Make the Road New York	11-3344389	DOHMH	\$36,369.14	816	112	Approved
Brooklyn	Amethyst Women's Project, Inc.	11-3505513	DOHMH	\$36,369.14	816	112	Approved
Brooklyn	Housing Works Health Services III	13-3818122	DOHMH	\$36,369.14	816	112	Application Not Rec'd by
Brooklyn	Alter Hours Project, Inc.	33-1007278	DOHMH	\$36,369.14	816	112	Deadline
Brooklyn	Brooklyn AIDS Task Force, Inc.	11-3031208	DOHMH	\$36,369.14	816	112	Application Not Rec'd by
Brooklyn	Discipleship Outreach Ministries, Inc. (Turning Point)	11-2838138	DOHMH	\$36,369.14	816	112	Deadline
Brooklyn	Caribbean Women's Health Association, Inc.	13-3323168	DOHMH	\$36,369.14	816	112	Approved
Brooklyn	Life Force: Women Fighting AIDS, Inc.	11-3067723	DOHMH	\$25,888.10	816	112	Approved
Brooklyn	Italian Centers Council, Inc.	11-2648501	DOHMH	\$25,888.10	816	112	Approved
Manhattan	Covenant House New York/Under 21 Inc.	13-3076378	DOHMH	\$48,540.00	816	112	Approved
Manhattan	Ali Forney Center	30-0104507	DOHMH	\$48,540.00	816	112	Approved
Manhattan	Gay Men's Health Crisis, Inc.	13-3130148	DOHMH	\$48,540.00	816	112	Approved
Manhattan	AIDS Service Center of Lower Manhattan, Inc.	13-5620711	DOHMH	\$36,369.14	816	112	Approved
Manhattan	Bailey House, Inc.	13-3165181	DOHMH	\$36,369.14	816	112	Approved
Manhattan	HELP/PSI, Inc.	13-3464470	DOHMH	\$36,369.14	816	112	Application Not Rec'd by
Manhattan	African Services Committee	13-3749744	DOHMH	\$36,369.14	816	112	Deadline
Manhattan	Community Healthcare Network, Inc.	13-3083068	DOHMH	\$36,369.14	816	112	Approved
Manhattan	Asian & Pacific Islander Coalition on HIV/AIDS, Inc.	13-3706368	DOHMH	\$36,369.14	816	112	Approved
Manhattan	Latino Commission on AIDS, Inc.	13-3629468	DOHMH	\$33,860.96	816	112	Approved
Manhattan	Momentum Project, Inc., The	13-3556768	DOHMH	\$36,369.14	816	112	Approved
Manhattan	Community Research Initiative on AIDS, Inc. (Rbia AIDS)	13-3632234	DOHMH	\$36,369.14	816	112	Approved
Manhattan	Community Research Initiative of America)	13-3449081	DOHMH	\$36,369.14	816	112	Approved
Manhattan	FACES NY, Inc.	13-3449081	DOHMH	\$36,369.14	816	112	Approved
Queens	AIDS Center of Queens County, Inc.	11-2837894	DOHMH	\$42,068.00	816	112	Approved

\* Indicates Application Pending completion of pre-qualification review.

CHART 24: HIV/AIDS Communities of Color (continued)

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc)
Queens	Clergy United for Community Empowerment, Inc.	11-3030795	DOHMH	\$35,825.11	816	112	Approved
Bronx	Bronx AIDS Services, Inc.	13-3599121	DOHMH	\$12,933.10	816	112	Approved
Bronx	Citwide Harm Reduction Program, Inc.	13-4009817	DOHMH	\$16,180.10	816	112	Approved
Bronx	St. Ann's Corner of Harm Reduction	13-3724008	DOHMH	\$16,072.02	816	112	Approved
Brooklyn	United Community Centers, Inc.	11-1950787	DOHMH	\$16,180.10	816	112	Approved
Brooklyn	Black Veterans for Social Justice	11-2608983	DOHMH	\$16,175.57	816	112	Approved
Brooklyn	Arthur Ashe Institute for Urban Health	11-3165372	DOHMH	\$16,150.98	816	112	Approved
Brooklyn	La Nueva Esperanza, Inc.	20-4393724	DOHMH	\$11,131.94	816	112	Application Not Rec'd by
Manhattan	Iris House - A Center For Women Living with HIV/AIDS, Inc.	13-3699201	DOHMH	\$16,180.10	816	112	Deadline
Manhattan	Gay Men of African Descent (GMAD)	13-3591820	DOHMH	\$16,180.10	816	112	Approved
Manhattan	Exponents, Inc.	13-3872677	DOHMH	\$16,180.10	816	112	Approved
Manhattan	Love Heals	13-3693776	DOHMH	\$16,180.10	816	112	Application Pending
Queens	Voces Latina Corp.	20-2312651	DOHMH	\$16,180.10	816	112	Application Pending
Staten Island	Community Health Action of Staten Island (formerly SI Aids Taskforce)	13-3556132	DOHMH	\$33,864.35	816	112	Approved
Citywide	Community Resource Exchange, Inc. (CRE)	13-3046638	DOHMH	\$161,800.00	816	112	Approved
Administrative	Public Health Solutions	13-5669201	DOHMH	\$124,800.00	816	112	Approved
				<b>\$1,864,000.00</b>			

\* Indicates Application Pending completion of pre-qualification review.

# EXHIBIT Y

CHART 25: Anti-Gang Initiative - FISCAL YEAR 2008

Organization	EIN Number	Agency	Amount	Agy #	U/A	Status (Council, MOC, etc)
Bridge Street Development Corporation	11-3250772	MISC	\$30,700.00	088	002	Approved
Bronx Heritage Society, Inc.	13-4006621	MISC	\$15,179.00	088	002	Approved
Brooklyn Ballers Sports Youth and Education Corp.	65-1209020	MISC	\$13,544.00	088	002	Approved
Brooklyn Chinese-American Association, Inc.	11-3065659	MISC	\$29,797.00	088	002	Approved
Castita Maria, Inc.	13-1623994	MISC	\$19,400.00	088	002	Approved
Centro Hispano Cuzcatlan, Inc.	11-3559496	MISC	\$24,243.00	088	002	Approved
Council for Unity, Inc.	11-2880221	MISC	\$21,428.00	088	002	Approved
East Harlem Employment Services, Inc.	13-3255679	MISC	\$24,932.02	088	002	Approved
East River Development Alliance, Inc.	86-1096987	MISC	\$49,957.00	088	002	Approved
Family Justice, Inc.	13-4164404	MISC	\$22,550.00	088	002	Approved
Fordham Bedford - Children's Services	13-3805049	MISC	\$15,000.00	088	002	Approved
Global Kids, Inc.	13-3659485	MISC	\$17,959.00	088	002	Approved
Grand Street Settlement, Inc.	13-5562230	MISC	\$25,000.00	088	002	Approved
Greater Ridgewood Youth Council, Inc.	11-2518141	MISC	\$25,413.00	088	002	Approved
Greenhope Services for Women	13-2813350	MISC	\$17,025.00	088	002	Approved
Junior High School 265 - Beacon Program	13-6400434	MISC	\$4,000.00	088	002	Approved
Kingsbridge Heights Community Center, Inc.	13-2813903	MISC	\$26,250.00	088	002	Approved
Life Camp, Inc.	20-0814998	MISC	\$7,224.00	088	002	Approved
Lincoln Square Business Improvement District	13-3922300	MISC	\$25,000.00	088	002	Approved
Mary Mitchell Youth and Family Center, Inc.	13-3365032	MISC	\$30,000.00	088	002	Approved
Maecath Town Hall, Inc.	23-7259702	MISC	\$25,594.00	088	002	Approved
Project Hospitality, Inc.	13-3234441	MISC	\$25,000.00	088	002	Approved
Ridgewood Bushwick Senior Citizens Council, Inc.-Hope Gardens Multi-Service Center	11-2453953	MISC	\$59,417.00	088	002	Approved
Samuel Field YW & YWHA, Inc.	11-3071518	MISC	\$25,594.00	088	002	Approved
South Queens Boys and Girls Club, Inc.	11-1966067	MISC	\$33,935.00	088	002	Approved
Stepping Stones Ministries, Inc.	13-2012963	MISC	\$18,746.00	088	002	Approved
Supportive Childrens Advocacy Network (SCAN)	20-2268752	MISC	\$30,000.00	088	002	Approved
United Coalition Association, Inc.	13-2268752	MISC	\$15,435.00	088	002	Approved
United Puerto Rican Organizations of Sunset Park (UPROSE), Inc.	11-2490531	MISC	\$19,112.00	088	002	Approved
Young Men's Christian Association of Greater New York - Cross Island YMCA	13-1624228	MISC	\$17,272.00	088	002	Approved
Young Men's Christian Association of Greater New York - Staten Island YMCA	13-1624228	MISC	\$75,753.00	088	002	Approved
Young Men's Christian Association of Greater New York - West Side YMCA	13-1624228	MISC	\$789.00	088	002	Approved
Youth Ministries For Peace and Justice	13-4006535	MISC	\$25,000.00	088	002	Approved
Yusef Iman Memorial Institute	55-0837664	MISC	\$23,751.00	088	002	Approved
			<b>\$899,999.02</b>			

\* Indicates pending completion of pre-qualification review.

# EXHIBIT Z

CHART 26: Homeless and Runaway Youth Population Count - FISCAL YEAR 2008

Organization	EIN Number	Agency	Amount	Agy #	UJA *	Status (Council, MOC, etc)
Empire State Coalition of Youth and Family Services**	73-3020589	DYCD	\$17,500.00	260	312	Approved
			\$17,500.00			

\* Indicates pending completion of pre-qualification review.  
 \*\*This amount was rolled over from FY 2007 to FY 2008

DAVID I. WEPRIN, Chairperson; DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, JAMES F. GENNARO, ALAN J. GERSON, ERIC N. GIOIA, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, April 22, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Finance and have been favorably reported for adoption.

Report for M-1388

**Report of the Committee on Finance in favor of approving a Communication from the Office of Management & Budget pursuant to Section 107(b) of the New York City Charter, in regard to the transfer of City funds between various agencies in Fiscal Year 2009 to implement changes to the City's expense budget. (MN-3)**

The Committee on Finance, to which was referred on April 22, 2009 the annexed communication, respectfully

**REPORTS:**

Introduction. At a meeting of the Committee on Finance of the City Council of the City of New York on April 22, 2009, the Committee on Finance received a communication, dated April 22, 2009 from the Office of Management and Budget of the Mayor of The City of New York, of a proposed request, (the "Modification"), to modify units of appropriation and transfer city funds between units of appropriation in the Fiscal 2009 Expense Budget (as defined below) pursuant to Section 107(b) of the Charter of the City of New York (the "Charter").

Analysis. The Council annually adopts the City's budget covering expenditures other than for capital projects (the "expense budget") pursuant to Section 254 of the Charter. On June 29, 2008, the Council adopted the expense budget for fiscal year 2009 (the "Fiscal 2009 Expense Budget"). This modification (MN-3) represents the transfer of funds within and between various agencies to reallocate appropriations reflected in the Fiscal 2009 Expense Budget. Specific changes in MN-3 include a \$159.3 million reduction in the General Reserve in the Miscellaneous

Budget; a \$105.4 million reduction to the Budget Stabilization Account in the City's Debt Service; a grant of \$545.7 million to the Transitional Finance Authority to prepay TFA debt service; and implements agency expense changes that were detailed in the last 2 Financial Plans.

If the Mayor wishes to transfer part or all of any unit of appropriation to another unit of appropriation from one agency to another or such that the transfer results in any unit of appropriation being increased or decreased by the greater of five percent or \$50,000, Section 107(b) of the Charter requires that the Mayor must first notify the Council of the proposed action. Within 30 days after the first stated meeting of the Council following receipt of such notice, the Council may disapprove such proposed action. If the Council fails to approve or disapprove such proposed action within such 30-day period, the proposed action becomes effective and the Mayor has the authority to make such transfer.

Description of Above-captioned Resolution. In the above-captioned resolution, the Council would approve the Modification pursuant to Section 107(b) of the Charter. Such resolution would take effect as of the date of adoption.

**(The following is the text of a Memo to the Finance Committee from the Finance Division of the New York City Council:)**

TO: Honorable Christine Quinn  
 Speaker

Honorable David I. Weprin  
 Chairman, Finance Committee

FROM: Preston Niblack, Director  
 Finance Division

DATE: April 22, 2009

SUBJECT: A budget modification (MN-3) for Fiscal Year 2009 to transfer City funds between various agencies to implement changes to the City's expense budget.

INITIATION: By letter dated April 22, 2009, the Director of the Office of Management and Budget submitted to the Council, pursuant to section 107(b) of the New York City Charter requests for approval to transfer funds between various agencies in Fiscal Year 2009 totaling \$1,223,881,709 to implement changes in the City's expense budget.

BACKGROUND: This modification (MN-3) implements expense budget appropriations, which were reflected in the City's November and Financial Plan modifications.

FISCAL IMPACT: This modification represents the transfer of funds within and between agencies. The net effect of this modification is zero.

Accordingly, Your Committee recommends its adoption.

In connection herewith, Council Member Weprin offered the following resolution:

Res. No. 1938

**Resolution approving the Modification (MN-3) of units of appropriation and the transfer of city funds between agencies proposed by the Mayor pursuant to Section 107(b) of the Charter of the City of New York.**

By Council Member Weprin.



Whereas, at a meeting of the Committee on Finance of the City Council of the City of New York (the "City Council") on April 22, 2009, the Committee on Finance received a communication, dated April 22, 2009, from the Office of Management and Budget of the Mayor of The City of New York (the "Mayor"), of a proposed request, attached hereto as Exhibit A (the "Modification"), to modify units of appropriation as adopted by the Council on June 29, 2008, pursuant to Section 107(b) of the Charter of the City of New York (the "Charter"), which total \$1,223,881.709

Whereas, pursuant to Section 107(b) of the Charter, the City Council has thirty (30) days after the first stated meeting of the City Council following such receipt within which to act upon the Modification;

NOW, THEREFORE, The Council of The City of New York hereby resolves as follows:

1. **Approval of Modification.** The City Council hereby approves, pursuant to Section 107(b) of the Charter, the actions proposed by the Mayor as set forth in the Modification.

2. **Effective Date.** This resolution shall take effect as of the date hereof.

**ATTACHMENT:**



The City of New York  
**Office of Management and Budget**  
 75 Park Place • New York, New York 10007-2146  
 Telephone: (212) 788-5900 • Fax: (212) 788-6300

Mark Page  
 Director

APR 22 10 10 26  
 SECRETARY'S OFFICE

April 21, 2009

TO THE CITY COUNCIL

Dear Council Members:

In accordance with Section 107(b) of the New York City Charter, I request your approval to transfer City funds between various agencies in fiscal year 2009 to implement changes to the City's expense budget.

This modification (MN-3) will implement expense budget changes, which were reflected in the City's November and January Financial Plan modifications. In addition, as requested by the City Council, this modification reallocates appropriations that were reflected in the FY 2009 Adopted Budget to fund City Council local initiatives.

MN-3 reduces the General Reserve in the Miscellaneous Budget by \$159.3 million, decreases the Budget Stabilization Account in the City's Debt Service Budget by \$105.4 million, provides for a grant of \$545.7 million to the Transitional Finance Authority (TFA) to prepay TFA debt service, and implements agency expense changes that were detailed in the November and January Financial Plans.

Appendix A details the State, Federal and other funds impacted by these changes.

Your approval of modification MN-3 is respectfully requested.

Very truly yours,

*Mark Page*  
 Mark Page

**Fiscal Year 2009 Budget Modification**

- MN 3 -

**FROM**

002	MAYORALTY	
021	OFFICE OF THE MAYOR-OTPS	-91,300
062	OFF OF LABOR RELATIONS-OTPS	-766,000
004	CAMPAIGN FINANCE BOARD	
001	PERSONAL SERVICES	-61,610
002	OTHER THAN PERSONAL SERVICES	-225,000
008	OFFICE OF THE ACTUARY	
100	PERSONAL SERVICE	-29,775
200	OTHER THAN PERSONAL SERVICE	-20,000
010	BOROUGH PRESIDENT - MANHATTAN	
001	PERSONAL SERVICES	-100,474
011	BOROUGH PRESIDENT BRONX	
001	PERSONAL SERVICES	-42,426
013	BOROUGH PRESIDENT - QUEENS	
001	PERSONAL SERVICES	-11,542
014	BOROUGH PRESIDENT STATEN ISLAN	
001	PERSONAL SERVICES	-22,036
017	DEPARTMENT OF EMERGENCY MANAGEMENT	
001	PERSONAL SERVICES	-29,419
002	OTHER THAN PERSONAL SERVICES	-516,500
021	OFFICE OF ADMINISTRATIVE TAX APPEALS	
002	OTHER THAN PERSONAL SERVICE	-52,000
030	DEPARTMENT OF CITY PLANNING	
001	PERSONAL SERVICES	-456,641
032	DEPARTMENT OF INVESTIGATION	
003	INSPECTOR GENERAL-PS	-490,043
035	NEW YORK RESEARCH LIBRARY	
001	LUMP SUM APPROPRIATION	-69,301
040	DEPARTMENT OF EDUCATION	
401	GE INSTR & SCH LEADERSHIP - PS	-2,812,375
402	GE INSTR & SCH LEADERSHIP - OTPS	-109,595,482

Tuesday, April 21, 2009

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**FROM**

040	DEPARTMENT OF EDUCATION	
404	SE INSTR & SCH LEADERSHIP -OTPS	-186,712
415	SCHOOL SUPPORT ORGANIZATION	-1,203,899
416	School Support Organization OTPS	-1,048,190
421	CW SE INSTR & SCHL LEADERSHIP - PS	-1,347,410
435	SCHOOL FACILITIES - PS	-3,112,838
436	SCHOOL FACILITIES - OTPS	-1,300,000
438	PUPIL TRANSPORTATION - OTPS	-72,423,425
439	SCHOOL FOOD SERVICES - PS	-943,437
440	SCHOOL FOOD SERVICES - OTPS	-35,019,232
453	CENTRAL ADMINISTRATION - PS	-8,877,515
454	CENTRAL ADMINISTRATION - OTPS	-14,675,484
491	COLLECTIVE BARGAINING - PS	-24,845,167
042	CITY UNIVERSITY	
001	COMMUNITY COLLEGE-OTPS	-735,000
054	CIVILIAN COMPLAINT REVIEW BD	
002	CCRB-OTPS	-24,000
056	POLICE DEPARTMENT	
100	OPERATIONS-OTPS	-277,368
057	FIRE DEPARTMENT	
005	EXECUTIVE ADMIN-OTPS	-3,049,869
006	FIRE EXTING & RESP-OTPS	-60,851
068	ADMIN FOR CHILDREN'S SERVICES	
002	OTHER THAN PERSONAL SERVICES	-1,209,150
004	HEADSTART/DAYCARE-OTPS	-3,400,000
006	CHILD WELFARE-OTPS	-5,858,972
069	DEPARTMENT OF SOCIAL SERVICES	
101	ADMINISTRATION-OTPS	-11,403,707
105	ADULT SERVICES - OTPS	-3,834,436
201	ADMINISTRATION	-34,742,908
203	PUBLIC ASSISTANCE	-7,216,724
071	DEPT OF HOMELESS SERVICES	
100	DEPT OF HOMELESS SERVICES-PS	-135,213

Tuesday, April 21, 2009

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**FROM**

095	PENSION CONTRIBUTIONS	
002	NON-CITY PENSIONS	-3,000,000
098	MISCELLANEOUS	
001	PERSONAL SERVICES	-476,541,571
003	FRINGE BENEFITS	-24,609,365
005	INDIGENT DEFENSE SERVICES	-8,000,000
002	GENERAL RESERVE	-159,303,665
099	GNRL & LSE PRCHS DBT SVC FUNDS	
003	LEASE PURCH & CITY GUAR DEBT	-42,992,023
004	BUDGET STABILIZATION ACCOUNT	-105,391,134
101	PUBLIC ADVOCATE	
001	PERSONAL SERVICES	-55,669
102	CITY COUNCIL	
005	COUNCIL SERVICES DIVISION	-510,000
200	OTPS CENTRAL STAFF	-160,000
126	DEPARTMENT OF CULTURAL AFFAIRS	
003	CULTURAL PROGRAMS	-758,491
009	BKLYN CHILDRENS MUSEUM	-26,045
012	NY HALL OF SCIENCE	-14,325
013	SI INSTITUTE ARTS & SCIENCES	-13,963
016	MUSEUM OF THE CITY OF NY	-6,395
019	BROOKLYN ACADEMY OF MUSIC	-67,565
020	SNUG HARBOR CULTURAL CENTER	-49,986
021	STUDIO MUSEUM IN HARLEM	-27,995
022	OTHER CULTURAL INSTITUTIONS	-454,370
024	N.Y.SHAKESPEARE FESTIVAL	-34,835
127	FINANCIAL INFO SERVICES AGENCY	
002	OTHER THAN PERSONAL SERVICES	-1,107,000
130	DEPARTMENT OF JUVENILE JUSTICE	
002	OTHER THAN PERSONAL SERVICES	-1,000,000
131	OFFICE PAYROLL ADMINISTRATION	
200	OTHER THAN PERSONAL SERVICE	-495,479

**FROM**

226	COMMISSION ON HUMAN RIGHTS	
001	PERSONAL SERVICES	-91,119
260	DEPT OF YOUTH & COMMUNITY DEV	
005	COMMUNITY DEVELOPMENT OTPS	-52,000
312	CONFLICTS OF INTEREST BOARD	
002	OTHER THAN PERSONAL SERVICES	-30,000
801	DEPT OF SMALL BUSINESS SERVICES	
002	DEPT. OF BUSINESS O.T.P.S.	-35,713
006	ECONOMIC DEVELOPMENT CORP.	-565,093
011	WORKFORCE INVESTMENT ACT - OTPS	-400,000
806	HOUSING PRESERVATION AND DEVEL	
006	HOUSING MAINTENANCE AND SALES	-194,172
008	OFFICE OF ADMINISTRATION OTPS	-203,000
816	DEPARTMENT OF HEALTH AND MENTAL HYGIENE	
106	OFFICE OF CHIEF MEDICAL EXAMINER - PS	-229,405
111	HEALTH ADMINISTRATION - OTPS	-457,164
113	HEALTH PROMOTION AND DISEASE PREV.-OTPS	-351,000
114	ENVIRONMENTAL HEALTH - OTPS	-1,000,000
121	MENTAL RETARDATION AND DEVELOPMENTAL DIS	-4,072,830
819	HEALTH AND HOSPITALS CORP	
001	LUMP SUM	-146,920
827	DEPARTMENT OF SANITATION	
106	EXEC & ADMINISTRATIVE-OTPS	-54,000
109	CLEANING & COLLECTION-OTPS	-15,715,550
110	WASTE DISPOSAL-OTPS	-3,796,420
111	BUILDING MANAGEMENT-OTPS	-71,000
112	MOTOR EQUIPMENT-OTPS	-543,000
836	DEPARTMENT OF FINANCE	
005	LEGAL	-1,349
007	PARKING VIOLATIONS BUREAU	-375,045
009	CITY SHERIFF	-1,271,084
841	DEPARTMENT OF TRANSPORTATION	
003	TRANSIT OPERATIONS	-318,186

**FROM**

841	DEPARTMENT OF TRANSPORTATION	
007	BUREAU OF BRIDGES - OTPS	-452,200
014	OTPS-TRAFFIC OPERATIONS	-6,192,751
858	DEPT OF INFO TECH & TELECOMM	
002	OTHER THAN PERSONAL SERVICES	-10,253,106
860	DEPT RECORDS + INFORMATION SVS	
200	OTHER THAN PERSONAL SERVICES	-48,000
941	PUBLIC ADMINISTRATOR-NY	
001	PERSONAL SERVICES	-16,981
945	PUBLIC ADMINISTRATOR-RICHMOND	
001	PERSONAL SERVICES	-1,314
		-1,223,881,709

**TO**

002	MAYORALTY	
020	OFFICE OF THE MAYOR-PS	100,397
040	OFFICE OF MGMT AND BUDGET-PS	105,943
050	CRIMINAL JUSTICE PROGRAMS PS	19,490
061	OFF OF LABOR RELATIONS-PS	640,908
380	OFFICE OF OPERATIONS-PS	8,276
560	SPECIAL ENFORCEMENT-PS	3,156
010	BOROUGH PRESIDENT - MANHATTAN	
002	OTHER THAN PERSONAL SERVICES	75,000
012	BOROUGH PRESIDENT - BROOKLYN	
001	PERSONAL SERVICES	26,728
013	BOROUGH PRESIDENT - QUEENS	
002	OTHER THAN PERSONAL SERVICES	100,000
015	OFFICE OF THE COMPTROLLER	
001	EXECUTIVE MANAGEMENT-PS	17,926
002	FIRST DEPUTY COMPT-PS	777,192
003	SECOND DEPUTY COMPT-PS	124,660
004	THIRD DEPUTY COMPT-PS	115,872
021	OFFICE OF ADMINISTRATIVE TAX APPEALS	
001	PERSONAL SERVICES	36,799
025	LAW DEPARTMENT	
001	PERSONAL SERVICES	753,510
002	OTHER THAN PERSONAL SERVICES	500,000
030	DEPARTMENT OF CITY PLANNING	
002	OTHER THAN PERSONAL SERVICES	239,985
032	DEPARTMENT OF INVESTIGATION	
001	PERSONAL SERVICES	77,487
004	INSPECTOR GENERAL-OTPS	16,000
037	NEW YORK PUBLIC LIBRARY	
006	SYSTEMWIDE SERVICES	863,689
038	BROOKLYN PUBLIC LIBRARY	
001	LUMP SUM	573,946

TO

039	QUEENS BOROUGH PUBLIC LIBRARY	
001	LUMP SUM	788,953
040	DEPARTMENT OF EDUCATION	
423	SE INSTRUCTIONAL SUPPORT - PS	14,901,663
442	SCHOOL SAFETY - OTPS	5,515,201
461	FRINGE BENEFITS - PS	17,403,239
470	SE PRE-K CONTRACT PMTS - OTPS	13,898,682
472	CHARTER/CONTRACT/FOSTER CARE PMTS - OTPS	62,817,926
054	CIVILIAN COMPLAINT REVIEW BD	
001	CCRB-PS	44,650
056	POLICE DEPARTMENT	
001	OPERATIONS	173,251,705
002	EXECUTIVE MANAGEMENT	19,484,611
003	SCHOOL SAFETY- P.S.	780,000
004	ADMINISTRATION-PERSONNEL	7,386,449
006	CRIMINAL JUSTICE	5,478,637
007	TRAFFIC ENFORCEMENT	3,424,309
008	TRANSIT POLICE-PS	18,585,936
009	HOUSING POLICE-PS	12,211,504
400	ADMINSITRATION-OTPS	500,000
700	TRAFFIC ENFORCEMENT-OTPS	3,774,590
057	FIRE DEPARTMENT	
001	EXECUTIVE ADMINISTRATIVE	1,049,253
002	FIRE EXTING AND EMERG RESP	48,610,896
003	FIRE INVESTIGATION	3,957
004	FIRE PREVENTION	1,324,536
009	EMERGENCY MEDICAL SERVICES-PS	2,811,265
010	EMERGENCY MEDICAL SERV-OTPS	1,030,973
068	ADMIN FOR CHILDREN'S SERVICES	
001	PERSONAL SERVICES	1,300,300
003	HEADSTART/DAYCARE-PS	277,425
005	ADMINISTRATIVE-PS	621,492

TO

069	DEPARTMENT OF SOCIAL SERVICES	
103	PUBLIC ASSISTANCE - OTPS	5,664,386
204	MEDICAL ASSISTANCE	9,971
205	ADULT SERVICES	5,259,974
071	DEPT OF HOMELESS SERVICES	
200	DEPT OF HOMELESS SERVICES-OTPS	20,309,326
072	DEPARTMENT OF CORRECTION	
001	ADMINISTRATION	1,571,443
002	OPERATIONS	25,016,629
003	OPERATIONS - OTPS	15,022,000
004	ADMINISTRATION - OTPS	1,440,000
073	BOARD OF CORRECTION	
001	PERSONAL SERVICES	23,818
095	PENSION CONTRIBUTIONS	
001	CITY ACTUARIAL PENSIONS	90,341,832
003	NON - ACTUARIAL PENSIONS	3,229,563
098	MISCELLANEOUS	
002	OTHER THAN PERSONAL SERVICES	496,605,695
099	GNRL & LSE PRCHS DBT SVC FUNDS	
001	FUNDED DEBT-W/O CONST LIMIT	32,209,972
102	CITY COUNCIL	
001	COUNCIL MEMBERS	610,000
002	COMMITTEE STAFFING	60,000
103	CITY CLERK	
001	PERSONAL SERVICES	99,114
125	DEPARTMENT FOR THE AGING	
001	EXECUTIVE & ADMIN MGMT - PS	164,844
002	COMMUNITY PROGRAMS - PS	440,702
003	COMMUNITY PROGRAMS - OTPS	8,062,679
126	DEPARTMENT OF CULTURAL AFFAIRS	
001	OFFICE OF COMMISSIONER-PS	87,003
004	METROPOLITAN MUSEUM OF ART	503,137
005	NY BOTANICAL GARDEN	215,759

TO

126	DEPARTMENT OF CULTURAL AFFAIRS	
006	AMER MUSEUM NATURAL HISTORY	395,271
007	THE WILDLIFE CONSERVATION SOC.	257,971
008	BROOKLYN MUSEUM	248,550
010	BROOKLYN BOTANIC GARDEN	124,701
011	QUEENS BOTANICAL GARDEN	95
014	S.I. ZOOLOGICAL SOCIETY	12,362
015	S I HISTORICAL SOCIETY	629
017	WAVE HILL	6,813
127	FINANCIAL INFO SERVICES AGENCY	
001	PERSONAL SERVICES	491,707
130	DEPARTMENT OF JUVENILE JUSTICE	
001	PERSONAL SERVICES	968,425
131	OFFICE PAYROLL ADMINISTRATION	
100	PERSONAL SERVICE	224,172
132	INDEPENDENT BUDGET OFFICE	
001	PERSONAL SERVICE	57,038
133	EQUAL EMPLOY PRACTICES COMM	
001	PERSONAL SERVICES	11,532
136	LANDMARKS PRESERVATION COMM.	
001	PERSONAL SERVICES	15,804
002	OTHER THAN PERSONAL SERVICES	79,574
156	NYC TAXI AND LIMOUSINE COMM	
001	PERSONAL SERVICE	487,787
260	DEPT OF YOUTH & COMMUNITY DEV	
002	EXECUTIVE AND ADMINISTRATIVE MGMT PS	579,528
311	PROGRAM SERVICES - PS	310,218
312	OTHER THAN PERSONAL SERVICES	2,710,330
312	CONFLICTS OF INTEREST BOARD	
001	PERSONAL SERVICES	3,271
313	OFC OF COLLECTIVE BARGAINING	
001	PERSONAL SERVICES	6,336

TO

341	MANHATTAN COMMUNITY BOARD #1	
001	PERSONAL SERVICES	4,500
342	MANHATTAN COMMUNITY BOARD #2	
001	PERSONAL SERVICES	4,500
343	MANHATTAN COMMUNITY BOARD #3	
001	PERSONAL SERVICES	4,500
344	MANHATTAN COMMUNITY BOARD #4	
001	PERSONAL SERVICES	4,500
345	MANHATTAN COMMUNITY BOARD #5	
001	PERSONAL SERVICES	4,500
003	RENT AND ENERGY	4,000
346	MANHATTAN COMMUNITY BOARD #6	
001	PERSONAL SERVICES	4,500
347	MANHATTAN COMMUNITY BOARD #7	
001	PERSONAL SERVICES	4,500
348	MANHATTAN COMMUNITY BOARD #8	
001	PERSONAL SERVICES	4,500
349	MANHATTAN COMMUNITY BOARD #9	
001	PERSONAL SERVICES	4,500
350	MANHATTAN COMMUNITY BOARD #10	
001	PERSONAL SERVICES	4,500
003	RENT	5,500
351	MANHATTAN COMMUNITY BOARD #11	
001	PERSONAL SERVICES	4,500
352	MANHATTAN COMMUNITY BOARD #12	
001	PERSONAL SERVICES	4,500
381	BRONX COMMUNITY BOARD #1	
001	PERSONAL SERVICES	4,500
382	BRONX COMMUNITY BOARD #2	
001	PERSONAL SERVICES	4,500
383	BRONX COMMUNITY BOARD #3	
001	PERSONAL SERVICES	4,500

**TO**

384	BRONX COMMUNITY BOARD #4	
	001 PERSONAL SERVICES	4,500
	002 OTHER THAN PERSONAL SERVICES	3,500
385	BRONX COMMUNITY BOARD #5	
	001 PERSONAL SERVICES	4,500
	002 OTHER THAN PERSONAL SERVICES	4,500
386	BRONX COMMUNITY BOARD #6	
	001 PERSONAL SERVICES	4,500
387	BRONX COMMUNITY BOARD #7	
	001 PERSONAL SERVICES	4,500
388	BRONX COMMUNITY BOARD #8	
	001 PERSONAL SERVICES	4,500
	002 OTHER THAN PERSONAL SERVICES	3,500
	003 RENT AND ENERGY	1,000
389	BRONX COMMUNITY BOARD #9	
	001 PERSONAL SERVICES	4,500
390	BRONX COMMUNITY BOARD #10	
	001 PERSONAL SERVICES	4,500
391	BRONX COMMUNITY BOARD #11	
	001 PERSONAL SERVICES	4,500
392	BRONX COMMUNITY BOARD #12	
	001 PERSONAL SERVICES	4,500
431	QUEENS COMMUNITY BOARD #1	
	001 PERSONAL SERVICES	4,500
432	QUEENS COMMUNITY BOARD #2	
	001 PERSONAL SERVICES	4,500
433	QUEENS COMMUNITY BOARD #3	
	001 PERSONAL SERVICES	4,500
434	QUEENS COMMUNITY BOARD #4	
	001 PERSONAL SERVICES	4,500
	003 RENT AND ENERGY	4,000
435	QUEENS COMMUNITY BOARD #5	
	001 PERSONAL SERVICES	4,500

**TO**

436	QUEENS COMMUNITY BOARD #6	
	001 PERSONAL SERVICES	4,500
437	QUEENS COMMUNITY BOARD #7	
	001 PERSONAL SERVICES	4,500
438	QUEENS COMMUNITY BOARD #8	
	001 PERSONAL SERVICES	4,500
	003 RENT	6,500
439	QUEENS COMMUNITY BOARD #9	
	001 PERSONAL SERVICES	4,500
440	QUEENS COMMUNITY BOARD #10	
	001 PERSONAL SERVICES	4,500
441	QUEENS COMMUNITY BOARD #11	
	001 PERSONAL SERVICES	4,500
442	QUEENS COMMUNITY BOARD #12	
	001 PERSONAL SERVICES	4,500
443	QUEENS COMMUNITY BOARD #13	
	001 PERSONAL SERVICES	4,500
444	QUEENS COMMUNITY BOARD #14	
	001 PERSONAL SERVICES	4,500
471	BROOKLYN COMMUNITY BOARD #1	
	001 PERSONAL SERVICES	4,500
472	BROOKLYN COMMUNITY BOARD #2	
	001 PERSONAL SERVICES	4,500
473	BROOKLYN COMMUNITY BOARD #3	
	001 PERSONAL SERVICES	4,500
474	BROOKLYN COMMUNITY BOARD #4	
	001 PERSONAL SERVICES	4,500
475	BROOKLYN COMMUNITY BOARD #5	
	001 PERSONAL SERVICES	4,500
476	BROOKLYN COMMUNITY BOARD #6	
	001 PERSONAL SERVICES	4,500
477	BROOKLYN COMMUNITY BOARD #7	
	001 PERSONAL SERVICES	4,500

**TO**

478	BROOKLYN COMMUNITY BOARD #8	
	001 PERSONAL SERVICES	4,500
	003 RENT AND ENERGY	4,000
479	BROOKLYN COMMUNITY BOARD #9	
	001 PERSONAL SERVICES	4,500
480	BROOKLYN COMMUNITY BOARD #10	
	001 PERSONAL SERVICES	4,500
481	BROOKLYN COMMUNITY BOARD #11	
	001 PERSONAL SERVICES	4,500
482	BROOKLYN COMMUNITY BOARD #12	
	001 PERSONAL SERVICES	4,500
483	BROOKLYN COMMUNITY BOARD #13	
	001 PERSONAL SERVICES	4,500
484	BROOKLYN COMMUNITY BOARD #14	
	001 PERSONAL SERVICES	4,500
485	BROOKLYN COMMUNITY BOARD #15	
	001 PERSONAL SERVICES	4,500
486	BROOKLYN COMMUNITY BOARD #16	
	001 PERSONAL SERVICES	4,500
487	BROOKLYN COMMUNITY BOARD #17	
	001 PERSONAL SERVICES	4,500
488	BROOKLYN COMMUNITY BOARD #18	
	001 PERSONAL SERVICE	4,500
	003 RENT	5,000
491	STATEN ISLAND COMMUNITY BD #1	
	001 PERSONAL SERVICES	4,500
492	STATEN ISLAND COMMUNITY BD #2	
	001 PERSONAL SERVICES	4,500
493	STATEN ISLAND COMMUNITY BD #3	
	001 PERSONAL SERVICES	4,500
781	DEPARTMENT OF PROBATION	
	001 EXECUTIVE MANAGEMENT	119,680
	002 PROBATION SERVICES	1,290,548

**TO**

781	DEPARTMENT OF PROBATION	
	003 PROBATION SERVICES-OTPS	34,400
801	DEPT OF SMALL BUSINESS SERVICES	
	001 DEPT. OF BUSINESS P.S.	147,586
	004 CONTRACT COMP & BUS. OPP - PS	29,869
	008 ECONOMIC PLANNING/FILM - PS	25,780
	010 WORKFORCE INVESTMENT ACT - PS	36,190
806	HOUSING PRESERVATION AND DEVEL	
	001 OFFICE OF ADMINISTRATION	137,656
	002 OFFICE OF DEVELOPMENT	191,539
	004 OFFICE OF HOUSING PRESERVATION	360,883
	009 OFFICE OF DEVELOPMENT OTPS	675,000
	010 HOUSING MANAGEMENT AND SALES	168,000
	011 OFFICE OF HOUSING PRESERVATION	209,000
810	DEPARTMENT OF BUILDINGS	
	001 PERSONAL SERVICES	1,986,771
	002 OTHER THAN PERSONAL SERVICES	3,218,463
816	DEPARTMENT OF HEALTH AND MENTAL HYGIENE	
	101 HEALTH ADMINISTRATION - PS	565,598
	102 DISEASE CONTROL AND EPIDEMIOLOGY - PS	1,181,990
	103 HEALTH PROMOTION AND DISEASE PREVEN.- PS	2,299,421
	104 ENVIRONMENTAL HEALTH - PS	1,543,791
	107 HEALTH CARE ACCESS AND IMPROVEMENT - PS	61,935
	108 MENTAL HYGIENE MANAGEMENT SERVICES - PS	939,099
	112 DISEASE CONTROL AND EPIDEMIOLOGY - OTPS	1,000,000
826	DEPT ENVIRONMENTAL PROTECTION	
	001 EXECUTIVE AND SUPPORT	510,104
	002 ENVIRONMENTAL MANAGEMENT	759,749
	003 WATER SUP. & WASTEWATER COLL	3,370,943
	005 ENVIRONMENTAL MANAGEMENT -OTPS	169,914
	006 EXECUTIVE & SUPPORT-OTPS	400,000
	007 CENTRAL UTILITY	854,085
	008 WASTEWATER TREATMENT	2,195,862

TO

827	DEPARTMENT OF SANITATION	
101	EXECUTIVE ADMINISTRATIVE	255,254
102	CLEANING & COLLECTION	9,098,304
103	WASTE DISPOSAL	162,287
104	BUILDING MANAGEMENT	422,858
105	BUREAU OF MOTOR EQUIP	148,160
113	SNOW-OTPS	3,365,420
829	BUSINESS INTEGRITY COMMISSION	
001	PERSONAL SERVICES	110,270
836	DEPARTMENT OF FINANCE	
001	ADMINISTRATION & PLANNING	3,596,366
002	OPERATIONS	1,026,714
003	PROPERTY	652,321
004	AUDIT	94,808
011	ADMINISTRATION-OTPS	1,345,000
022	OPERATIONS-OTPS	3,000,000
044	AUDIT-OTPS	1,400,000
841	DEPARTMENT OF TRANSPORTATION	
001	EXEC ADM & PLANN MGT.	730,894
002	HIGHWAY OPERATIONS	232,233
004	TRAFFIC OPERATIONS	3,710,951
006	BUREAU OF BRIDGES	1,302,177
011	OTPS-EXEC AND ADMINISTRATION	103,188
012	OTPS-HIGHWAY OPERATIONS	164,445
013	OTPS-TRANSIT OPERATIONS	994,778
846	DEPT OF PARKS AND RECREATION	
001	EXEC MGMT & ADMIN	23,910
002	MAINTENANCE & OPERATIONS	4,312,217
004	RECREATION SERVICES	769,616
006	MAINT & OPERATIONS - OTPS	555,000
850	DEPT OF DESIGN & CONSTRUCTION	
002	OTHER THAN PERSONAL SERVICES	1,861,705

TO

905	DISTRICT ATTORNEY RICHMOND	
001	PERSONAL SERVICES	86,559
906	OFF.OF PROSECUTION SPEC.NARC.	
001	PERSONAL SERVICES	237,994
002	OTHER THAN PERSONAL SERVICES	23,070
941	PUBLIC ADMINISTRATOR-NY	
002	OTHER THAN PERSONAL SERVICES	31,474
942	PUBLIC ADMINISTRATOR BRONX	
001	PERSONAL SERVICES	5,207
002	OTHER THAN PERSONAL SERVICES	2,325
943	PUBLIC ADMINISTRATOR-KINGS	
001	PERSONAL SERVICES	13,086
002	OTHER THAN PERSONAL SERVICES	2,275
944	PUBLIC ADMINISTRATOR QUEENS	
001	PERSONAL SERVICES	10,783
002	OTHER THAN PERSONAL SERVICES	786
945	PUBLIC ADMINISTRATOR-RICHMOND	
002	OTHER THAN PERSONAL SERVICES	1,314
		1,223,881,709

TO

856	DEPT OF CITYWIDE ADMIN SERVS	
001	DIV OF CTYWDE PERSONNEL SERV	217,547
003	OFF OF ADM. TRIALS & HEARINGS	137,673
005	BD OF STANDARD & APPEALS PS	95,020
100	EXECUTIVE AND SUPPORT SERVICES	486,884
190	EXECUTIVE AND SUPPORT SERVICES-OTPS	7,505,295
200	DIV OF ADMINISTRATION AND SECURITY - PS	163,063
300	DIV OF FACILITIES MGMT AND CONSTRUCTION	708,120
390	DIV OF FACILITIES MGMT AND CONST- OTPS	1,651,007
400	DIV OF MUNICIPAL SUPPLY SERVS.	118,373
490	DIV. OF MUNI SUPPLIES-OTPS	2,800,000
500	DIV OF REAL ESTATE SERVICES	120,358
600	COMMUNICATIONS	27,658
858	DEPT OF INFO TECH & TELECOMM	
001	PERSONAL SERVICES	3,376,584
860	DEPT RECORDS + INFORMATION SVS	
100	PERSONAL SERVICES	65,118
866	DEPARTMENT OF CONSUMER AFFAIRS	
001	ADMINISTRATION	27,919
002	LICENSING/ENFORCEMENT	465,585
004	ADJUDICATION	40,607
901	DISTRICT ATTORNEY NEW YORK	
001	PERSONAL SERVICES	2,250,454
002	OTHER THAN PERSONAL SERVICES	76,933
902	DISTRICT ATTORNEY BRONX CO.	
001	PERSONAL SERVICES	654,407
002	OTHER THAN PERSONAL SERVICES	22,537
903	DISTRICT ATTORNEY KINGS CO.	
001	PERSONAL SERVICES	898,764
002	OTHER THAN PERSONAL SERVICES	406,127
904	DISTRICT ATTORNEY QUEENS CO.	
001	PERSONAL SERVICES	482,833
002	OTHER THAN PERSONAL SERVICES	43,161

TO

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APPENDIX A  
Summary of Changes By Agency

	FROM					
	Total	Intra-City	City	Capital	State	Other
002 MAYORALTY						
021 OFFICE OF THE MAYOR-OTPS	-91,300	0	-91,300	0	0	0
062 OFF OF LABOR RELATIONS-OTPS	0	0	-766,000	766,000	0	0
004 CAMPAIGN FINANCE BOARD						
001 PERSONAL SERVICES	-61,610	0	-61,610	0	0	0
002 OTHER THAN PERSONAL SERVICES	-225,000	0	-225,000	0	0	0
008 OFFICE OF THE ACTUARY						
100 PERSONAL SERVICE	-29,775	0	-29,775	0	0	0
200 OTHER THAN PERSONAL SERVICE	-20,000	0	-20,000	0	0	0
010 BOROUGH PRESIDENT - MANHATTAN						
001 PERSONAL SERVICES	-100,474	0	-100,474	0	0	0
011 BOROUGH PRESIDENT BRONX						
001 PERSONAL SERVICES	-42,426	0	-42,426	0	0	0
013 BOROUGH PRESIDENT - QUEENS						
001 PERSONAL SERVICES	-11,542	0	-11,542	0	0	0
014 BOROUGH PRESIDENT STATEN ISLAN						
001 PERSONAL SERVICES	-22,036	0	-22,036	0	0	0
017 DEPARTMENT OF EMERGENCY MANAGEMENT						
001 PERSONAL SERVICES	1,352	0	-29,419	0	0	30,771
002 OTHER THAN PERSONAL SERVICES	-516,500	0	-516,500	0	0	0
021 OFFICE OF ADMINISTRATIVE TAX APPEALS						
002 OTHER THAN PERSONAL SERVICE	-52,000	0	-52,000	0	0	0
030 DEPARTMENT OF CITY PLANNING						
001 PERSONAL SERVICES	192,043	0	-456,641	0	2,067	29,619
032 DEPARTMENT OF INVESTIGATION						
003 INSPECTOR GENERAL-PS	7,338	497,381	-490,043	0	0	0

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	FROM					
	Total	Intra-City	City	Capital	State	Other
068 ADMIN FOR CHILDREN'S SERVICES						
004 HEADSTART/DAYCARE-OTPS	-3,400,000	0	-3,400,000	0	0	0
006 CHILD WELFARE-OTPS	-5,914,136	0	-5,858,972	0	2,519,083	-2,574,247
069 DEPARTMENT OF SOCIAL SERVICES						
101 ADMINISTRATIONS-OTPS	-5,016,289	0	-11,403,707	0	7,858,732	-1,471,314
105 ADULT SERVICES - OTPS	-2,527,026	0	-3,834,436	0	-1,537,244	2,844,654
201 ADMINISTRATION	5,429,168	0	-34,742,908	0	24,327,665	15,844,411
203 PUBLIC ASSISTANCE	8,835,989	0	-7,216,724	0	11,164,974	4,887,739
071 DEPT OF HOMELESS SERVICES						
100 DEPT OF HOMELESS SERVICES-PS	-135,213	0	-135,213	0	0	0
095 PENSION CONTRIBUTIONS						
002 NON-CITY PENSIONS	-3,000,000	0	-3,000,000	0	0	0
098 MISCELLANEOUS						
001 PERSONAL SERVICES	-476,541,571	0	-476,541,571	0	0	0
003 FRINGE BENEFITS	4,341,375	0	-24,609,365	-4,046,216	31,444,221	1,552,735
005 INDIGENT DEFENSE SERVICES	2,496,245	0	-8,000,000	0	10,496,245	0
002 GENERAL RESERVE	-159,303,665	0	-159,303,665	0	0	0
099 GNRL & LSE PRCHS DBT SVC FUNDS						
003 LEASE PURCH & CITY GUAR DEBT	-42,992,023	0	-42,992,023	0	0	0
004 BUDGET STABILIZATION ACCOUNT	-105,391,134	0	-105,391,134	0	0	0
101 PUBLIC ADVOCATE						
001 PERSONAL SERVICES	-55,669	0	-55,669	0	0	0
102 CITY COUNCIL						
005 COUNCIL SERVICES DIVISION	-510,000	0	-510,000	0	0	0
200 OTS CENTRAL STAFF	-160,000	0	-160,000	0	0	0
126 DEPARTMENT OF CULTURAL AFFAIRS						
003 CULTURAL PROGRAMS	-758,491	0	-758,491	0	0	0
009 BKLYN CHILDREN'S MUSEUM	-26,045	0	-26,045	0	0	0

Tuesday, April 21, 2009

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	FROM							TO								
	Total	Intra-City	City	Categ.	Capital	State	CD	Other	Total	Intra-City	City	Categ.	Capital	State	CD	Other
816 DEPARTMENT OF HEALTH AND MENTAL HYGIENE																
106 OFFICE OF CHIEF MEDICAL EXAMINER - FS	4,794,492	0	-229,405	0	0	0	0	0	0	-229,405	0	0	0	5,023,897	0	0
111 HEALTH ADMINISTRATION - OTS	3,290,239	0	-457,164	0	0	0	0	0	0	-457,164	0	0	0	3,747,403	0	0
113 HEALTH PROMOTION AND DISEASE PREV.-O	-351,000	0	-351,000	0	0	0	0	0	0	-351,000	0	0	0	0	0	0
114 ENVIRONMENTAL HEALTH - OTS	-1,000,000	0	-1,000,000	0	0	0	0	0	0	-1,000,000	0	0	0	0	0	0
121 MENTAL RETARDATION AND DEVELOPMENT	-2,272,830	0	-4,072,830	1,800,000	0	0	0	0	0	-4,072,830	1,800,000	0	0	0	0	0
819 HEALTH AND HOSPITALS CORP																
001 LUMP SUM	-146,920	0	-146,920	0	0	0	0	0	0	-146,920	0	0	0	0	0	0
827 DEPARTMENT OF SANITATION																
106 EXEC & ADMINISTRATIVE-OTS	-54,000	0	-54,000	0	0	0	0	0	0	-54,000	0	0	0	0	0	0
109 CLEANING & COLLECTION-OTS	-10,215,550	0	-15,715,550	0	0	5,500,000	0	0	0	-15,715,550	0	0	0	5,500,000	0	0
110 WASTE DISPOSAL-OTS	-3,796,420	0	-3,796,420	0	0	0	0	0	0	-3,796,420	0	0	0	0	0	0
111 BUILDING MANAGEMENT-OTS	-71,000	0	-71,000	0	0	0	0	0	0	-71,000	0	0	0	0	0	0
112 MOTOR EQUIPMENT-OTS	-543,000	0	-543,000	0	0	0	0	0	0	-543,000	0	0	0	0	0	0
836 DEPARTMENT OF FINANCE																
005 LEGAL	-1,349	0	-1,349	0	0	0	0	0	0	-1,349	0	0	0	0	0	0
007 PARKING VIOLATIONS BUREAU	-375,045	0	-375,045	0	0	0	0	0	0	-375,045	0	0	0	0	0	0
009 CITY SHERIFF	-1,271,084	0	-1,271,084	0	0	0	0	0	0	-1,271,084	0	0	0	0	0	0
841 DEPARTMENT OF TRANSPORTATION																
003 TRANSIT OPERATIONS	-342,060	0	-318,186	0	38,126	-62,000	0	0	0	-318,186	0	0	38,126	-62,000	0	0
007 BUREAU OF BRIDGES - OTS	47,800	0	47,800	0	0	500,000	0	0	0	47,800	0	0	0	500,000	0	0
014 OTS-TRAFFIC OPERATIONS	-611,751	0	-6,192,751	0	0	0	0	5,581,000	0	-6,192,751	0	0	0	0	0	5,581,000
858 DEPT OF INFO TECH & TELECOMM																
002 OTHER THAN PERSONAL SERVICES	-11,591,106	-1,338,000	-10,253,106	0	0	0	0	0	0	-11,591,106	-1,338,000	0	0	0	0	0
860 DEPT RECORDS + INFORMATION SVS																
200 OTHER THAN PERSONAL SERVICES	-48,000	0	-48,000	0	0	0	0	0	0	-48,000	0	0	0	0	0	0
941 PUBLIC ADMINISTRATOR-NY																
001 PERSONAL SERVICES	-16,981	0	-16,981	0	0	0	0	0	0	-16,981	0	0	0	0	0	0

	FROM							TO								
	Total	Intra-City	City	Categ.	Capital	State	CD	Other	Total	Intra-City	City	Categ.	Capital	State	CD	Other
945 PUBLIC ADMINISTRATOR-RICHMOND																
001 PERSONAL SERVICES	-1,314	0	-1,314	0	0	0	0	0	0	-1,314	0	0	0	0	0	0
5,098,018,848	-840,619	-1,223,881,709	-1,081,170	-504,580	99,809,174	837,081	26,599,365									
032 DEPARTMENT OF INVESTIGATION																
004 INSPECTOR GENERAL-OTS	16,000	0	16,000	0	0	0	0	0	0	16,000	0	0	0	0	0	0
037 NEW YORK PUBLIC LIBRARY																
006 SYSTEMS-WIDE SERVICES	863,689	0	863,689	0	0	0	0	0	0	863,689	0	0	0	0	0	0
038 BROOKLYN PUBLIC LIBRARY																
001 LUMP SUM	573,946	0	573,946	0	0	0	0	0	0	573,946	0	0	0	0	0	0
039 QUEENS BOROUGH PUBLIC LIBRARY																
001 LUMP SUM	788,953	0	788,953	0	0	0	0	0	0	788,953	0	0	0	0	0	0
040 DEPARTMENT OF EDUCATION																
423 SE-INSTRUCTIONAL SUPPORT - FS	14,901,663	0	14,901,663	0	0	0	0	0	0	14,901,663	0	0	0	0	0	0
442 SCHOOL SAFETY - OTS	5,515,201	0	5,515,201	0	0	0	0	0	0	5,515,201	0	0	0	0	0	0
461 FRINGE BENEFITS - FS	17,403,239	0	17,403,239	0	0	0	0	0	0	17,403,239	0	0	0	0	0	0
470 SE-PRE-K CONTRACT PMTS - OTS	13,898,682	0	13,898,682	0	0	0	0	0	0	13,898,682	0	0	0	0	0	0
472 CHARTER/CONTRACT/FOSTER CARE PMTS -	62,817,926	0	62,817,926	0	0	0	0	0	0	62,817,926	0	0	0	0	0	0
474 NFS & FTT PMTS - OTS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
481 CATEGORICAL PROGRAMS - FS	-3,161,780	-1,600,000	0	0	0	-1,561,780	0	0	0	-1,600,000	0	0	0	-1,561,780	0	0
482 CATEGORICAL PROGRAMS - OTS	-2,086,132	0	0	0	0	-401,580	0	-1,684,552	0	-2,086,132	0	0	0	-401,580	0	-1,684,552
042 CITY UNIVERSITY																
002 COMMUNITY COLLEGE FS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
054 CIVILIAN COMPLAINT REVIEW BD																
001 CCRBS	44,650	0	44,650	0	0	0	0	0	0	44,650	0	0	0	0	0	0
056 POLICE DEPARTMENT																
001 OPERATIONS	173,153,705	0	173,251,705	0	0	-98,000	0	0	0	173,251,705	0	0	0	-98,000	0	0
002 EXECUTIVE MANAGEMENT	19,484,611	0	19,484,611	0	0	0	0	0	0	19,484,611	0	0	0	0	0	0
003 SCHOOL SAFETY-FS	6,295,201	5,515,201	780,000	0	0	0	0	0	0	6,295,201	5,515,201	0	0	0	0	0
004 ADMINISTRATION-PERSONNEL	7,386,449	0	7,386,449	0	0	0	0	0	0	7,386,449	0	0	0	0	0	0
006 CRIMINAL JUSTICE	5,478,637	0	5,478,637	0	0	0	0	0	0	5,478,637	0	0	0	0	0	0
007 TRAFFIC ENFORCEMENT	3,424,309	0	3,424,309	0	0	0	0	0	0	3,424,309	0	0	0	0	0	0

	FROM							TO								
	Total	Intra-City	City	Categ.	Capital	State	CD	Other	Total	Intra-City	City	Categ.	Capital	State	CD	Other
002 MAYORALTY																
020 OFFICE OF THE MAYORS	100,397	-125,000	100,397	0	125,000	0	0	0	0	100,397	0	0	125,000	0	0	0
040 OFFICE OF MGMT AND BUDGETS	670,037	0	105,943	6,722	555,228	0	2,144	0	0	105,943	6,722	0	555,228	0	2,144	0
050 CRIMINAL JUSTICE PROGRAMS-FS	19,490	0	19,490	0	0	0	0	0	0	19,490	0	0	0	0	0	0
061 OFF OF LABOR RELATIONS-FS	657,871	0	640,908	16,963	0	0	0	0	0	640,908	16,963	0	0	0	0	0
380 OFFICE OF OPERATIONS-FS	10,149	0	8,276	0	0	0	1,873	0	0	8,276	0	0	0	0	1,873	0
560 SPECIAL ENFORCEMENT-FS	3,156	0	3,156	0	0	0	0	0	0	3,156	0	0	0	0	0	0
010 BOROUGH PRESIDENT - MANHATTAN																
002 OTHER THAN PERSONAL SERVICES	75,000	0	75,000	0	0	0	0	0	0	75,000	0	0	0	0	0	0
012 BOROUGH PRESIDENT - BROOKLYN																
001 PERSONAL SERVICES	26,728	0	26,728	0	0	0	0	0	0	26,728	0	0	0	0	0	0
013 BOROUGH PRESIDENT - QUEENS																
002 OTHER THAN PERSONAL SERVICES	100,000	0	100,000	0	0	0	0	0	0	100,000	0	0	0	0	0	0
015 OFFICE OF THE COMPTROLLER																
001 EXECUTIVE MANAGEMENT-FS	17,926	0	17,926	0	0	0	0	0	0	17,926	0	0	0	0	0	0
002 FIRST DEPUTY COMPT-FS	854,108	0	777,192	0	46,916	0	0	0	0	777,192	0	0	46,916	0	0	0
003 SECOND DEPUTY COMPT-FS	185,555	0	124,660	0	60,895	0	0	0	0	124,660	0	0	60,895	0	0	0
004 THIRD DEPUTY COMPT-FS	115,872	0	115,872	0	0	0	0	0	0	115,872	0	0	0	0	0	0
021 OFFICE OF ADMINISTRATIVE TAX APPEALS																
001 PERSONAL SERVICES	36,799	0	36,799	0	0	0	0	0	0	36,799	0	0	0	0	0	0
025 LAW DEPARTMENT																
001 PERSONAL SERVICES	786,841	0	753,510	0	33,331	0	0	0	0	753,510	0	0	33,331	0	0	0
002 OTHER THAN PERSONAL SERVICES	500,000	0	500,000	0	0	0	0	0	0	500,000	0	0	0	0	0	0
030 DEPARTMENT OF CITY PLANNING																
002 OTHER THAN PERSONAL SERVICES	239,985	0	239,985	0	0	0	0	0	0	239,985	0	0	0	0	0	0
003 GEOGRAPHIC SYSTEMS	26,232	0	26,232	0	0	0	0	0	0	26,232	0	0	0	0	0	0
032 DEPARTMENT OF INVESTIGATION																
001 PERSONAL SERVICES	77,487	0	77,487	0	0	0	0	0	0	77,487	0	0	0	0	0	0

	FROM							TO								
	Total	Intra-City	City	Categ.	Capital	State	CD	Other	Total	Intra-City	City	Categ.	Capital	State	CD	Other
032 DEPARTMENT OF INVESTIGATION																
004 INSPECTOR GENERAL-OTS	16,000	0	16,000	0	0	0	0	0	0	16,000	0	0	0	0	0	0
037 NEW YORK PUBLIC LIBRARY																

	<u>Total</u>	<u>Intra/City</u>	<u>City</u>	<u>Categ.</u>	<u>Capital</u>	<u>State</u>	<u>CD</u>	<u>Other</u>
	<u>TO</u>	<u>Intra/City</u>	<u>City</u>	<u>Categ.</u>	<u>Capital</u>	<u>State</u>	<u>CD</u>	<u>Other</u>
056 POLICE DEPARTMENT								
008 TRANSIT POLICE-PS	18,585,936	0	18,585,936	0	0	0	0	0
009 HOUSING POLICE-PS	12,211,504	0	12,211,504	0	0	0	0	0
400 ADMINISTRATION-OTIS	2,600,000	0	500,000	0	0	2,100,000	0	0
700 TRAFFIC ENFORCEMENT-OTIS	3,774,590	0	3,774,590	0	0	0	0	0
057 FIRE DEPARTMENT								
001 EXECUTIVE ADMINISTRATIVE	1,049,253	0	1,049,253	0	0	0	0	0
002 FIRE EXTING AND EMERG RESP	48,610,896	0	48,610,896	0	0	0	0	0
003 FIRE INVESTIGATION	3,957	0	3,957	0	0	0	0	0
004 FIRE PREVENTION	1,324,536	0	1,324,536	0	0	0	0	0
009 EMERGENCY MEDICAL SERVICES-PS	19,429,509	0	2,811,265	16,618,244	0	0	0	0
010 EMERGENCY MEDICAL SERV-OTIS	1,030,973	0	1,030,973	0	0	0	0	0
068 ADMIN FOR CHILDREN'S SERVICES								
001 PERSONAL SERVICES	2,951,245	0	1,300,300	0	0	1,185,221	0	475,724
003 HEADSTART/DAYCARE-PS	656,608	0	277,425	0	0	254,847	0	104,336
005 ADMINISTRATIVES	1,439,296	0	621,492	0	0	576,303	0	241,501
069 DEPARTMENT OF SOCIAL SERVICES								
103 PUBLIC ASSISTANCE-OTIS	89,987,806	0	5,664,386	0	0	60,977,691	0	23,345,729
204 MEDICAL ASSISTANCE	3,769,639	0	9,971	0	0	1,876,209	0	1,883,459
205 ADULT SERVICES	6,151,658	0	5,239,974	0	0	436,247	0	455,437
071 DEPT OF HOMELESS SERVICES								
200 DEPT OF HOMELESS SERVICES-OTIS	53,541,905	0	20,309,326	0	0	16,205,549	0	17,027,030
072 DEPARTMENT OF CORRECTION								
001 ADMINISTRATION	-1,728,557	0	1,571,443	0	0	-3,300,000	0	0
002 OPERATIONS	19,688,149	0	25,016,629	0	0	-5,328,480	0	0
003 OPERATIONS - OTIS	15,019,000	0	15,022,000	0	0	-3,000	0	0
004 ADMINISTRATION - OTIS	1,440,000	0	1,440,000	0	0	0	0	0

Tuesday, April 21, 2009

	<u>Total</u>	<u>Intra/City</u>	<u>City</u>	<u>Categ.</u>	<u>Capital</u>	<u>State</u>	<u>CD</u>	<u>Other</u>
	<u>TO</u>	<u>Intra/City</u>	<u>City</u>	<u>Categ.</u>	<u>Capital</u>	<u>State</u>	<u>CD</u>	<u>Other</u>
073 BOARD OF CORRECTION								
001 PERSONAL SERVICES	23,818	0	23,818	0	0	0	0	0
095 PENSION CONTRIBUTIONS								
001 CITY ACTUARIAL PENSIONS	90,341,832	0	90,341,832	0	0	0	0	0
003 NON- ACTUARIAL PENSIONS	0	0	3,229,563	0	0	-3,229,563	0	0
098 MISCELLANEOUS								
002 OTHER THAN PERSONAL SERVICES	677,764,695	0	496,605,695	0	0	181,159,000	0	0
099 GNRL & LSE PRCHS DBT SVC FUNDS								
001 FUNDED DBET-WO CONST LIMIT	-14,271,653	0	32,209,972	-46,481,625	0	0	0	0
102 CITY COUNCIL								
001 COUNCIL MEMBERS	610,000	0	610,000	0	0	0	0	0
002 COMMITTEE STAFFING	60,000	0	60,000	0	0	0	0	0
103 CITY CLERK								
001 PERSONAL SERVICES	99,114	0	99,114	0	0	0	0	0
125 DEPARTMENT FOR THE AGING								
001 EXECUTIVE & ADMIN MGMT- PS	171,343	0	164,844	0	0	6,499	0	0
002 COMMUNITY PROGRAMS - PS	440,702	0	440,702	0	0	0	0	0
003 COMMUNITY PROGRAMS - OTIS	6,062,131	0	8,062,679	0	0	-1,761,285	0	-239,263
004 EXECUTIVE & ADMIN MGMT-OTIS	-5,715	0	0	0	0	-5,715	0	0
126 DEPARTMENT OF CULTURAL AFFAIRS								
001 OFFICE OF COMMISSIONER-PS	87,003	0	87,003	0	0	0	0	0
004 METROPOLITAN MUSEUM OF ART	503,137	0	503,137	0	0	0	0	0
005 NY BOTANICAL GARDEN	215,759	0	215,759	0	0	0	0	0
006 AMER MUSEUM NATURAL HISTORY	395,271	0	395,271	0	0	0	0	0
007 THE WILDLIFE CONSERVATION SOC	257,971	0	257,971	0	0	0	0	0
008 BROOKLYN MUSEUM	248,550	0	248,550	0	0	0	0	0
010 BROOKLYN BOTANIC GARDEN	124,701	0	124,701	0	0	0	0	0
011 QUEENS BOTANICAL GARD EN	95	0	95	0	0	0	0	0

Tuesday, April 21, 2009

	<u>Total</u>	<u>Intra/City</u>	<u>City</u>	<u>Categ.</u>	<u>Capital</u>	<u>State</u>	<u>CD</u>	<u>Other</u>
	<u>TO</u>	<u>Intra/City</u>	<u>City</u>	<u>Categ.</u>	<u>Capital</u>	<u>State</u>	<u>CD</u>	<u>Other</u>
126 DEPARTMENT OF CULTURAL AFFAIRS								
014 S1 ZOOLOGICAL SOCIETY	12,362	0	12,362	0	0	0	0	0
015 S1 HISTORICAL SOCIETY	629	0	629	0	0	0	0	0
017 WAVE HILL	6,813	0	6,813	0	0	0	0	0
127 FINANCIAL INFO SERVICES AGENCY								
001 PERSONAL SERVICES	493,029	0	491,707	0	1,322	0	0	0
130 DEPARTMENT OF JUVENILE JUSTICE								
001 PERSONAL SERVICES	2,968,255	0	968,425	0	0	1,999,830	0	0
131 OFFICE PAYROLL ADMINISTRATION								
100 PERSONAL SERVICE	226,373	0	224,172	0	2,201	0	0	0
132 INDEPENDENT BUDGET OFFICE								
001 PERSONAL SERVICE	57,038	0	57,038	0	0	0	0	0
133 EQUAL EMPLOY PRACTICES COMM								
001 PERSONAL SERVICES	11,532	0	11,532	0	0	0	0	0
136 LANDMARKS PRESERVATION COMM.								
001 PERSONAL SERVICES	27,703	0	15,804	0	0	11,899	0	0
002 OTHER THAN PERSONAL SERVICES	79,574	0	79,574	0	0	0	0	0
156 NYC TAXI AND LIMOUSINE COMM								
001 PERSONAL SERVICE	487,787	0	487,787	0	0	0	0	0
226 COMMISSION ON HUMAN RIGHTS								
003 COMMUNITY DEVELOP P.S.	31,370	0	0	0	0	0	31,370	0
260 DEPT OF YOUTH & COMMUNITY DEV								
002 EXECUTIVE AND ADMINISTRATIVE MGMT P	579,528	0	579,528	0	0	0	0	0
311 PROGRAM SERVICES - PS	310,218	0	310,218	0	0	0	0	0
312 OTHER THAN PERSONAL SERVICES	2,858,455	0	2,710,330	0	0	148,125	0	0
312 CONFLICTS OF INTEREST BOARD								
001 PERSONAL SERVICES	3,271	0	3,271	0	0	0	0	0

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	<u>Total</u>	<u>Intra/City</u>	<u>City</u>	<u>Categ.</u>	<u>Capital</u>	<u>State</u>	<u>CD</u>	<u>Other</u>
	<u>TO</u>	<u>Intra/City</u>	<u>City</u>	<u>Categ.</u>	<u>Capital</u>	<u>State</u>	<u>CD</u>	<u>Other</u>
313 OFC OF COLLECTIVE BARGAINING								
001 PERSONAL SERVICES	6,336	0	6,336	0	0	0	0	0
341 MANHATTAN COMMUNITY BOARD #1								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
342 MANHATTAN COMMUNITY BOARD #2								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
343 MANHATTAN COMMUNITY BOARD #3								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
344 MANHATTAN COMMUNITY BOARD #4								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
345 MANHATTAN COMMUNITY BOARD #5								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
003 RENT AND ENERGY	4,000	0	4,000	0	0	0	0	0
346 MANHATTAN COMMUNITY BOARD #6								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
347 MANHATTAN COMMUNITY BOARD #7								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
348 MANHATTAN COMMUNITY BOARD #8								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
349 MANHATTAN COMMUNITY BOARD #9								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
350 MANHATTAN COMMUNITY BOARD #10								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
003 RENT	5,500	0	5,500	0	0	0	0	0
351 MANHATTAN COMMUNITY BOARD #11								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0
352 MANHATTAN COMMUNITY BOARD #12								
001 PERSONAL SERVICES	4,500	0	4,500	0	0	0	0	0

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	Total	Intra-City	TO City	Categ.	Capital	State	CD	Other
944 PUBLIC ADMINISTRATOR QUEENS 002 OTHER THAN PERSONAL SERVICES	786	0	786	0	0	0	0	0
945 PUBLIC ADMINISTRATOR-RICHMOND 002 OTHER THAN PERSONAL SERVICES	1,314	0	1,314	0	0	0	0	0
	1,311,998,913	4,815,552	1,223,881,709	29,773,638	12,450,268	257,133,818	3,034,111	40,437,143

	Total	Intra-City	TO City	Categ.	Capital	State	CD	Other
	413,980,065	3,974,933	0	30,825,408	12,959,848	356,962,992	3,871,192	67,036,508

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GENNARO, ALAN J. GERSON, ERIC N. GIOIA, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, April 22, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Finance and have been favorably reported for adoption.

Report for M-1389

**Report of the Committee on Finance in favor of approving a Communication from the Office of Management & Budget pursuant to Section 107(e) of the New York City Charter, in order to reduce the City's General Reserve to reflect a reduction in City revenues in Fiscal Year 2009 in the amount of \$136.8 million. (MN-4)**

The Committee on Finance, to which was referred on April 22, 2009 the annexed communication, respectfully

**REPORTS:**

Introduction. At the meeting of the Committee on Finance of the City Council on April 22, 2009, the Council received a communication, from the Office of Management and Budget of the Mayor, dated April 22, 2009, of a proposed request to modify, pursuant to Section 107(e) of the Charter of the City of New York, the Fiscal 2009 Expense Budget, and the revenue estimate related thereto prepared by the Mayor as of December 18<sup>th</sup>, 2008.

Analysis. The Council annually adopts the City's budget covering expenditures pursuant to Section 254 of the Charter. On June 29, 2008, the Council adopted the expense budget for fiscal year 2009 (the "Fiscal 2009 Expense Budget"). On June 29, 2008, the Mayor submitted to the Council a revenue estimate related to the Fiscal 2009 Expense Budget. On December 18, 2008, the Council adopted MN-1 and MN-2 modifying the Fiscal 2009 Expense and Revenue Budgets. Circumstances have changed since the Council last amended Fiscal 2009 Expense Budget.

Section 107(e) provides one mechanism for the Mayor and the Council to amend the expense budget and related revenue estimate to reflect changes in circumstances that occur after adoption of a budget. Section 107(e) permits the modification of the budget in order to create new units of appropriation, to appropriate new revenues from any source other than categorical federal, state and private funding or to use previously unappropriated funds received from any source.

Discussion of Above-captioned Resolution. The above-captioned resolution would authorize the modifications to the Fiscal 2009 Expense Budget and related revenue estimate requested in the Communication.

This modification (MN-4) seeks to decrease revenues in the net amount of \$136.8 million for Fiscal 2009. This modification includes a decrease of \$727.4 million tax revenues due to a weakening economy, a reduction of \$85.3 million in unrestricted aid from New York State, an increase of \$175.9 million in revenues from miscellaneous sources and a savings of \$500 million from prior payables.

This revenue modification reduces the General Reserve in the City's Miscellaneous Budget by \$136.8 million.

The resolution would also direct the City Clerk to forward a certified copy thereof to the Mayor and the Comptroller so that the Mayor, the Comptroller and the City Clerk may certify the Fiscal 2009 Expense Budget as amended thereby as the budget for the remainder of the fiscal year. The above-captioned resolution would take effect as of the date adopted.

**(The following is the text of a Memo to the Finance Committee from the Finance Division of the New York City Council:)**

TO: Honorable Christine Quinn  
Speaker

Honorable David Weprin  
Chairman, Finance Committee

FROM: Preston Niblack, Director  
Finance Division

Raymond Majewski  
Deputy Director/Chief Economist  
Finance Division

DATE: April 22, 2009

SUBJECT: A Preconsidered Budget Modification (MN-4) for Fiscal 2009 that will recognize a net decrease in revenues of \$136.8 million.

INITIATION: By letter dated April 22, 2009, the Director of the Office of Management and Budget submitted to the Council pursuant to section 107(e) of the New York City Charter a request to decrease revenues by \$136.8 million.

BACKGROUND: This modification (MN-4) seeks to decrease revenues in the net amount of \$136.8 million for Fiscal 2009. This modification includes a decrease of \$727.4 million in tax revenues reflecting the forecast in the January 2009 Financial Plan. Unrestricted aid is decreased by \$85.3 million. These are offset by \$500 million savings in prior payables and an increase of \$175.9 million in miscellaneous revenues.

This revenue modification reduces the General Reserve in the Miscellaneous budget by \$136.8 million.

FISCAL IMPACT: This modification represents a net decrease in the Fiscal 2009 budget of \$136.8 million.

Accordingly, Your Committee recommends its adoption.

In connection herewith, Council Member Weprin offered the following resolution:

Res. No. 1939

**Resolution approving a Modification pursuant to Section 107(e) of the Charter of the City of New York.**

By Council Member Weprin

**Whereas**, on April 22, 2009 the Committee on Finance of the City Council received a communication, dated April 22, 2009 from the Mayor's Office of Management and Budget, of a proposed request to recognize a net decrease in revenue pursuant to Section 107(e) of the Charter of the City of New York, attached hereto as Exhibit A (the "Request to Appropriate"); and

**Whereas**, Section 107(e) of the Charter requires the City Council and the Mayor to follow the procedures and required approvals pursuant to Sections 254, 255, and 256 of the Charter, without regard to the dates specified therein, in the case of the proposed appropriation of any new revenues and the creation of new units of appropriation; and

**Whereas**, Section 107(e) of the Charter requires that any request by the Mayor respecting an amendment of the budget that involves an increase in the budget shall be accompanied by a statement of the source of current revenues or other identifiable and currently available funds required for the payment of such additional amounts, attached hereto as Exhibit B (together with the Request to Appropriate, the "Revenue Modification");

**NOW, THEREFORE**, the Council of the City of New York hereby resolves as follows:

**1. Approval of Modification.** The City Council hereby approves the Revenue Modification pursuant to Section 107(e) of the Charter.

**2. Further Actions.** The City Council directs the City Clerk to forward a certified copy of this resolution to the Mayor and the Comptroller as soon as practicable so that the Mayor, the Comptroller and the City Clerk may certify the Fiscal 2009 Expense Budget as amended by this resolution as the budget for the remainder of the fiscal year.

**3. Effective Date.** This resolution shall take effect as of the date hereof.

DAVID I. WEPRIN, Chairperson; DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, JAMES F. GENNARO, ALAN J. GERSON, ERIC N. GIOIA, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, April 22, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

**Report of the Committee on Fire and Criminal Justice Services**

Report for Int. No. 937-A

**Report of the Committee on Fire and Criminal Justice Services in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York in relation to requiring the commissioner of the department of correction to report on census data and security indicators involving adolescents in city jails.**

The Committee on Fire and Criminal Justice Services, to which was referred on February 26, 2009 (Minutes, page 604) the annexed amended proposed local law, respectfully

**REPORTS:**

**I. INTRODUCTION**

On April 22, 2009 the Committee on Fire and Criminal Justice Services, chaired by Council Member James Vacca will hold a hearing to further review Proposed Int. No. 937-A, a Local Law to amend the Administrative Code of the City of New York in relation to requiring the commissioner of the department of correction to report on census data and security indicators involving adolescents in city jails. The Committee previously conducted a hearing on this matter on February 23, 2009.

**II. BACKGROUND**

The New York City correctional system is presently comprised of 13 open facilities, nine of which are on Rikers Island.<sup>1</sup> In Fiscal Year 2008, the DOC had 107,516 admissions and managed an average daily inmate population of 13,850 individuals.<sup>2</sup>

As of February 17, 2009, there were 871 adolescents, between the ages of 16 and 18, housed in various facilities on Rikers Island, as detailed below.<sup>3</sup>

**ADOLESCENT POPULATION IN RIKERS CORRECTIONAL FACILITIES**

Facility	Male Adolescents Detained	Male Adolescents Sentenced	Female Adolescents Detained	Female Adolescents Sentenced
EMTC		67		
NIC	14			
NICINF	1			
OBCC	71			
RMSC			23	10
RNDC	663	17		
GRVC	4			
W-DCU	1			
<b>Rikers Total</b>	<b>754</b>	<b>84</b>	<b>23</b>	<b>10</b>

On October 20, 2008, Christopher Robinson, an 18 year old inmate at Rikers Island was found dead in his jail cell.<sup>4</sup> On January 22, 2009 Bronx District Attorney Robert T. Johnson and New York City Department of Investigation Commissioner Rose Gill Hearn announced that a grand jury had indicted three New York City Correction Officers and twelve adolescent inmates on charges including manslaughter, conspiracy, enterprise corruption and other offenses stemming from an investigation into the death of Mr. Robinson.<sup>5</sup> The four month investigation into the fatal beating of Mr. Robinson uncovered numerous other alleged criminal acts

against adolescent inmates, including assaults, acts of coercion, larceny and extortion.<sup>6</sup> The crimes charged in the indictment involve nine different victims on nine separate occasions between July 10, 2008 and October 18, 2008.<sup>7</sup> The death of Christopher Robinson was followed by Council oversight hearings on the special needs of adolescents in jails and an examination of adolescent jail violence that lead to the introduction of Proposed Int. No. 937-A.

Currently, the DOC reports jail data twice a year: once in the Mayor's Management Report ("MMR"), which contains various indicators for previous fiscal years, and once in the Preliminary Mayor's Management Report, which contains various indicators for the first four months of the current fiscal year, along with a recapitulation of prior fiscal years. The DOC also posts some jail data on its website that reflects previous fiscal years. However, other than school data, to the knowledge of the Committee, there is no separate information being routinely publicly reported by the city or the DOC regarding adolescents in city jails.

At a November, 2008 joint hearing of the Council Fire and Criminal Justice Services, Juvenile Justice and Youth Services Committees regarding the special needs of adolescents in City jails, it became apparent that not only was information pertaining to adolescents in city jails being collected by the DOC but that the Council would benefit from having it. The Committees determined that having this information would enable them to develop a more accurate understanding of the conditions in which adolescents in city jails are living and to take appropriate action or call on the appropriate agencies to take action, if, and when necessary.

The November hearing also revealed that information regarding an adolescent's gender and previous history of incarceration was being collected and collated but not included in any public reporting. Committee Members believe having this information, as well as the age of these individuals, will be useful in understanding and addressing their special needs and in determining how to prevent or break the cycle of recidivism.

### III. ANALYSIS OF PROPOSED INT. NO. 937-A:

Section 1 of Proposed Int. No. 937-A would amend Title 9 of Administrative Code of the City of New York by adding a new section 9-130 entitled, "Jail data reporting on adolescents." Subdivision a of the new section 9-130 would provide the following definitions:

1. "Adolescent" shall mean persons 16, 17 and 18 years of age.
2. "Department" shall mean the New York city department of correction.
3. "Serious injury as a result of adolescent on adolescent fights" shall mean a physical injury that includes: (i) a substantial risk of death or disfigurement; (ii) loss or impairment of a bodily organ; (iii) a fracture or break to a bone, excluding fingers and toes; (iv) an injury defined as serious by a physician; and (v) any additional injury as defined by the department.
4. "Staff" shall mean anyone, other than an inmate, working at a facility operated by the department.
5. "Use of force" shall mean the use of chemical agents or physical contact between a uniformed member of service and an inmate, but shall not include physical contact used in a non-confrontational manner to apply mechanical restraints or to guide an inmate.
6. "Use of force A" shall mean a use of force resulting in an injury that requires medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid, including, but not limited to: (i) multiple abrasions and/or contusions; (ii) chipped or cracked tooth; (iii) loss of tooth; (iv) laceration; (v) puncture; (vi) fracture; (vii) loss of consciousness, including a concussion; (viii) suture; (ix) internal injuries, including but not limited to ruptured spleen or perforated eardrum.; or (x) admission to a hospital.
7. "Use of force B" shall mean a use of force resulting in an injury that does not require hospitalization or medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid.

Subdivision b would require the commissioner of correction to post a report on the department website within fifteen days of the beginning of each fiscal year quarter containing information pertaining to adolescents in city jails for the prior quarter, unless a different time period is specified for a particular indicator. Subdivision b would further require that such quarterly report indicate the average daily adolescent population for the reporting period and the prior fiscal year total for each indicator, as well as, information regarding census data and security indicators for city jails, as detailed below.

Paragraph 1 of subdivision b, entitled, "Census data," requires the report include, on an annual basis, separate indicators for: (i) the total number of adolescent admissions to city jails disaggregated by age and gender; and (ii) the percentage of those admitted who were previously admitted to a facility operated by the department; and (iii) the percentage of those admitted who within the last year were admitted to a facility under the jurisdiction of the department of juvenile justice. Such annual report shall indicate the percentage change for each census data indicator from the prior year.

Paragraph 2 of subdivision b, entitled, "Security indicators for city jails," requires the report include separate indicators, disaggregated by facility, for the total number of: (i) stabbings involving an adolescent, (ii) slashings involving an adolescent, (iii) assaults on staff by adolescents, (iv) fight infractions written against adolescents, (v) allegations of use of force A involving adolescents, (vi) incidents of use of force A involving adolescents, (vii) allegations of use of force B involving adolescents, (viii) incidents of use

of force B involving adolescents; (ix) adolescent hospital admissions as a result of use of force A; (x) incidents of use of force involving adolescents that result in no injury; (xi) incidents of use of force involving adolescents in which chemical agents are used; (xii) serious injuries as a result of adolescent on adolescent fights, (xiii) hospital admissions of adolescents as a result of adolescent on adolescent fights; (xiv) homicides involving adolescents, (xv) attempted suicides by adolescents; (xvi) suicides by adolescents; (xvii) substantiated incidents of adolescent on adolescent sexual assault; (xviii) substantiated incidents of staff on adolescent sexual assault.

Paragraph 3 of subdivision b, entitled, "Additional indicators for city jails," requires the report include, on an annual basis, separate indicators, disaggregated by facility, for the total number of: (i) allegations of adolescent on adolescent sexual assault; (ii) allegations of staff on adolescent sexual assault; and (iii) adolescent on adolescent fights that result in (a) loss of consciousness, including concussions, not otherwise reported; and (b) internal injuries not otherwise reported.

Section 2 of Proposed Int. No. 937-A would provide that this local law shall take effect on July 1, 2009.

### IV. AMENDMENTS TO PROPOSED INT. NO. 937-A:

Section 1 of Proposed Int. No. 937-A adds a new section 9-130 to the administrative code rather than amending section 9-129 by lettering the existing text as subdivision a and adding a new subdivision b as it previously had.

Subdivision a of section 9-130, entitled, "Jail data reporting on adolescents," reflects the addition of the definitions of: Adolescent, Department, Serious injury as a result of adolescent on adolescent fights, Staff, and Use of force A and B as detailed above.

Subdivision b requires a quarterly report be posted on the department website within fifteen days of each fiscal quarter containing information pertaining to adolescents in city jails for the prior quarter, unless a different time period is specified for a particular indicator, rather than a monthly report being submitted by the department to the chair of the Council Fire and Criminal Justice Services Committee by the second Monday of each month as was previously required.

Previously, the report included information regarding, "Census data," "Violent incidents," and "Restrictive placement." The "Census data" section, now in paragraph 1 of subdivision b, is required on an annual basis rather than monthly, and requires the percentage of those admitted who within the last year were admitted to a facility under the jurisdiction of the department of juvenile justice rather than disaggregating those that were admitted by whether they were previously admitted to a juvenile justice facility.

The "Violent incidents" section now in paragraph 2 of subdivision b has been renamed, "Security indicators for city jails," while the number of indicators has been reduced from twenty-one to eighteen. Indicators for assault infractions; inmate health clinic visits and average length of stay; stabbings committed by two or more people; slashings committed by two or more people; assaults committed by two or more people; fights involving more than two people and incidents involving self-identified gang members have been eliminated. Indicators for adolescent hospital admissions as a result of use of force A; incidents of use of force involving adolescents that result in no injury; incidents of use of force involving adolescents in which chemical agents are used; hospital admissions of adolescents as a result of adolescent on adolescent fights; attempted suicides by adolescents; substantiated incidents of adolescent on adolescent sexual assault and substantiated incidents of staff on adolescent sexual assault have been added. Several indicators were merged and or slightly modified to make it clear that they are those that involve an adolescent in some manner and the indicators regarding use of force that result serious injury as well the indicator regarding use of force that results in no serious injury were modified to reflect use of force A and B incidents.

The "Restrictive placement" section was eliminated and replaced in paragraph 3 of subdivision b by "Additional indicators for city jails, which include, on an annual basis, separate indicators, disaggregated by facility, for the total number of: (i) allegations of adolescent on adolescent sexual assault; (ii) allegations of staff on adolescent sexual assault; and (iii) adolescent on adolescent fights that result in (a) loss of consciousness, including concussions, not otherwise reported; and (b) internal injuries not otherwise reported."

Section 2 of Proposed Int. No. 937-A now provides that the local law take effect on July 1, 2009 rather than sixty days after enactment.

<sup>1</sup> N.Y.C Dep't of Correction, *Facility Locations*, at [http://www.nyc.gov/html/doc/html/facilities/locate\\_facility.shtml](http://www.nyc.gov/html/doc/html/facilities/locate_facility.shtml).

<sup>2</sup> N.Y. City Office of Operations, *Mayor's Management Report September 2008*.

<sup>3</sup> Email: From Department of Correction to New York City Council staff, February 17, 2009. On file with the Fire and Criminal Justice Committee.

<sup>4</sup> *Teen found dead in Rikers cell*, New York Daily News, October 20, 2008; Simone Weichselbaum and Alison Gendar.

<sup>5</sup> *The Death of an 18 year old Inmate on Rikers Island Last October Leads to Numerous Criminal Charges Against Three Correction Officers and Twelve Teenage Inmates*, Office of the Bronx District Attorney Press Release, January 22, 2009.

<sup>6</sup> Id.

<sup>7</sup> Id.

(The following is from the text of the Fiscal Impact Statement for Int. No. 937-A:)

**FISCAL IMPACT STATEMENT:**

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

**IMPACT ON REVENUES:** This legislation would have no impact on revenues.

**IMPACT ON EXPENDITURES:** This legislation would have no impact on city expenditures as all of the data required to be reported on the DOC website is already compiled by the agency.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** N/A

**SOURCE OF INFORMATION:** City Council Finance Division, Mayor’s Office of Legislative Affairs

**ESTIMATE PREPARED BY:** Andy Grossman, Deputy Director  
Eisha Williams, Supervising Legislative Financial Analyst

**HISTORY:** On February 23, 2009, this legislation was considered as a Pre-Considered Introduction by the Committee on Fire and Criminal Justice Services and the Committee on Juvenile Justice. The Pre-Considered Introduction was introduced in the full Council on February 26, 2009 and referred to the Committee on Fire and Criminal Justice Services as Int. 937. An amended version, Proposed Intro. 937-A, will be considered by the Committee on April 22, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 937-A:)

Int. No. 937-A

By Council Members James, Gonzalez, Martinez, Comrie, Dickens, Fidler, Foster, Mark-Viverito, Palma, Sanders, White, Seabrook, Eugene, Gioia, Gennaro, Liu and Jackson.

**A Local Law to amend the administrative code of the city of New York in relation to requiring the commissioner of the department of correction to report on census data and security indicators involving adolescents in city jails.**

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-130 to read as follows:

§9-130 Jail data reporting on adolescents. a. Definitions. For purposes of this section, the following terms shall have the following meanings:

1. “Adolescent” shall mean persons 16, 17 and 18 years of age.
2. “Department” shall mean the New York city department of correction.
3. “Serious injury as a result of adolescent on adolescent fights” shall mean a physical injury that includes: (i) a substantial risk of death or disfigurement; (ii) loss or impairment of a bodily organ; (iii) a fracture or break to a bone, excluding fingers and toes; (iv) an injury defined as serious by a physician; and (v) any additional injury as defined by the department.
4. “Staff” shall mean anyone, other than an inmate, working at a facility operated by the department.
5. “Use of force” shall mean the use of chemical agents or physical contact between a uniformed member of service and an inmate, but shall not include physical contact used in a non-confrontational manner to apply mechanical restraints or to guide an inmate.
6. “Use of force A” shall mean a use of force resulting in an injury that requires medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid, including, but not limited to: (i) multiple abrasions and/or contusions; (ii) chipped or cracked tooth; (iii) loss of tooth; (iv) laceration; (v) puncture; (vi) fracture; (vii) loss of consciousness, including a concussion; (viii) suture; (ix) internal injuries, including but not limited to ruptured spleen or perforated eardrum.; or (x) admission to a hospital.

7. “Use of force B” shall mean a use of force resulting in an injury that does not require hospitalization or medical treatment beyond the prescription of over-the-counter analgesics or the administration of minor first aid.

b. The commissioner of correction shall post a report on the department website within fifteen days of the beginning of each fiscal year quarter containing information pertaining to adolescents in city jails for the prior quarter, unless a different time period is specified for a particular indicator. Such quarterly report shall indicate the average daily adolescent population for the reporting period and the prior fiscal year total for each indicator. The report shall include information regarding census data and security indicators for city jails, as follows:

1. Census data. The report shall include, on an annual basis, separate indicators for: (i) the total number of adolescent admissions to city jails disaggregated by age and gender; and (ii) the percentage of those admitted who were previously admitted to a facility operated by the department; and (iii) the percentage of those admitted who within the last year were admitted to a facility under the jurisdiction of the department of juvenile justice. Such annual report shall indicate the percentage change for each census data indicator from the prior year.

2. Security indicators for city jails. The report shall include separate indicators, disaggregated by facility, for the total number of: (i) stabbings involving an adolescent, (ii) slashings involving an adolescent, (iii) assaults on staff by adolescents, (iv) fight infractions written against adolescents, (v) allegations of use of force A involving adolescents, (vi) incidents of use of force A involving adolescents, (vii) allegations of use of force B involving adolescents, (viii) incidents of use of force B involving adolescents; (ix) adolescent hospital admissions as a result of use of force A; (x) incidents of use of force involving adolescents that result in no injury; (xi) incidents of use of force involving adolescents in which chemical agents are used; (xii) serious injuries as a result of adolescent on adolescent fights, (xiii) hospital admissions of adolescents as a result of adolescent on adolescent fights; (xiv) homicides involving adolescents, (xv) attempted suicides by adolescents; (xvi) suicides by adolescents; (xvii) substantiated incidents of adolescent on adolescent sexual assault; (xviii) substantiated incidents of staff on adolescent sexual assault.

3. Additional indicators for city jails. The report shall include, on an annual basis, separate indicators, disaggregated by facility, for the total number of: (i) allegations of adolescent on adolescent sexual assault; (ii) allegations of staff on adolescent sexual assault; and (iii) adolescent on adolescent fights that result in (a) loss of consciousness, including concussions, not otherwise reported; and (b) internal injuries not otherwise reported.

§2. This local law shall take effect on July 1, 2009.

JAMES VACCA, Chairperson; TONY AVELLA, ALAN J. GERSON, ERIC N. GIOIA, MIGUEL MARTINEZ, PETER F. VALLONE JR., VINCENT J. GENTILE, MATHIEU EUGENE, ELIZABETH CROWLEY, Committee on Fire and Criminal Justice Services, April 22, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

**Reports of the Committee on Land Use**

Report for L.U. No. 974

**Report of the Committee on Land Use in favor of approving Application no. 20095235 HAM, an amended Urban Development Action Area Project known as the Bradhurst Cluster, Council Districts no. 7 and 9, Borough of Manhattan. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development and pursuant to Section 696 of the General Municipal Law for a tax exemption.**

The Committee on Land Use, to which was referred on January 28, 2009 (Minutes, page 311) the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

Proposal subject to Council review and action pursuant to the Urban Development Action Area Act, Article 16 of the New York General Municipal Law, at the request of the Department of Housing Preservation and Development (“HPD”),

<u>ADDRESS</u>	<u>BLOCK/LOT</u>	<u>NON-ULURP NO.</u>	<u>L.U. NO.</u>	<u>PROGRAM PROJECT</u>
2080 F. Douglass Blvd. Cornerstone	1828/63	20095235 HAM	Pre.	

2078 F. Douglass Blvd. 1828/64  
 215 West 115<sup>th</sup> Street 1831/21  
 228 West 116<sup>th</sup> Street 1831/47  
 312 West 112<sup>th</sup> Street 1846/55  
 274 West 117<sup>th</sup> Street 1922/58  
 205 West 119<sup>th</sup> Street 1925/25  
 203 West 119<sup>th</sup> Street 1925/27  
 311 West 141<sup>st</sup> Street 2043/7  
 Manhattan

**INTENT**

HPD requests that the Council:

1. Find that the present status of the Disposition Areas tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the General Municipal Law;
2. Approve the designation of the area pursuant to Section 693 of the General Municipal Law;
3. Approve the projects as Urban Development Action Area Projects pursuant to Section 694 of the General Municipal Law; and
4. Approve an exemption of the projects from real property taxes pursuant to Section 696 of the General Municipal Law.

*Report Summary:*

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the proposals, grant the requests made by the Department of Housing Preservation and Development, and make the findings required by Article 16 of the General Municipal Law.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 1940

**Resolution approving an amended Urban Development Action Area Project located at 2080 Frederick Douglass Boulevard (Block 1828, Lot 63), 2078 Frederick Douglass Boulevard (Block 1828, Lot 64), 215 West 115<sup>th</sup> Street (Block 1831, Lot 21), 228 West 116<sup>th</sup> Street (Block 1831, Lot 47), 312 West 112<sup>th</sup> Street (Block 1846, Lot 55), 274 West 117<sup>th</sup> Street (Block 1922, Lot 58), 205 West 119<sup>th</sup> Street (Block 1925, Lot 25), 203 West 119<sup>th</sup> Street (Block 1925, Lot 27), and 311 West 141<sup>st</sup> Street (Block 2043, Lot 7), Borough of Manhattan, and approving the urban development action area designation and project, pursuant to Sections 693 and 694 of the General Municipal Law (L.U. No. 974; 20095235 HAM).**

By Council Members Katz and Garodnick.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on December 17, 2008 its request dated November 24, 2008 that the Council take the following actions regarding the following Urban Development Action Area Project (the "Project") located at 2080 Frederick Douglass Boulevard (Block 1828, Lot 63), 2078 Frederick Douglass Boulevard (Block 1828, Lot 64), 215 West 115<sup>th</sup> Street (Block 1831, Lot 21), 228 West 116<sup>th</sup> Street (Block 1831, Lot 47), 312 West 112<sup>th</sup> Street (Block 1846, Lot 55), 274 West 117<sup>th</sup> Street (Block 1922, Lot 58), 205 West 119<sup>th</sup> Street (Block 1925, Lot 25), 203 West 119<sup>th</sup> Street (Block 1925, Lot 27), and 311 West 141<sup>st</sup> Street (Block 2043, Lot 7), Community District 10, Borough of Manhattan (the "Disposition Area"):

1. Find that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law;
2. Approve the designation of the Disposition Area as an Urban Development Area pursuant to Section 693 of the General Municipal Law;
3. Approve the Project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law; and
4. Approve the exemption of the Project from real property taxes pursuant to Section 696 of the General Municipal Law for 228 West 116<sup>th</sup> Street (Block 1831, Lot 47), 312 West 112<sup>th</sup> Street (Block 1846, Lot 55), 274 West 117<sup>th</sup> Street (Block 1922, Lot 58), Borough of Manhattan (the "Exemption Area").

**WHEREAS**, the Project is to be developed on land that is an eligible area as defined in Section 692 of the General Municipal Law, consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one to four unit dwellings, and does not require any change in land use permitted under the New York City Zoning Resolution;

**WHEREAS**, the Project amends C 080108 HAM (L.U. No. 639; Resolution No. 1358 of 2008);

**WHEREAS**, upon due notice, the Council held a public hearing on the Project on April 20, 2009;

**WHEREAS**, the Council has considered the land use and financial implications and other policy issues relating to the Project;

**RESOLVED:**

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the area designation requirement pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law.

The Project shall be developed in a manner consistent with the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The exemption of the buildings to be constructed on 228 West 116<sup>th</sup> Street (Block 1831, Lot 47), 312 West 112<sup>th</sup> Street (Block 1846, Lot 55), 274 West 117<sup>th</sup> Street (Block 1922, Lot 58) from real property taxes pursuant to Section 696 of the General Municipal Law is approved as follows:

- a. All of the value of the buildings, structures, and other improvements situated on the Exemption Area shall be exempt from local and municipal taxes, other than assessments for local improvements and land value, for a period of twenty years commencing on the July 1<sup>st</sup> following the conveyance of the Exemption Area to the Sponsor, during the last ten years of which such exemption shall decrease in equal annual decrements.
- b. The partial tax exemption granted hereunder shall terminate with respect to all or any portion of the Exemption Area if the Department of Housing Preservation and Development determines that such real property has not been, or is not being, developed, used, and/or operated in compliance with the requirements of all applicable agreements made by the Sponsor or the owner of such real property with, or for the benefit of, the City of New York. The Department of Housing Preservation and Development shall deliver written notice of any such determination of noncompliance to the owner of such real property and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than ninety (90) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the partial tax exemption

granted hereunder shall prospectively terminate with respect to the real property specified therein.

**ATTACHMENT:**

20095235 HAM  
Page 1 of 2  
L.U. No. 974

**PROJECT SUMMARY**

- 1. PROGRAM: CORNERSTONE PROGRAM
- 2. PROJECT: Bradhurst Cluster, Cornerstone IV - Ametided
- 3. LOCATION:
  - a. BOROUGH: Manhattan
  - b. COMMUNITY DISTRICT: 10
  - c. COUNCIL DISTRICTS: 9, 7
- d. DISPOSITION AREA:
 

BLOCKS	LOTS	ADDRESSES
1828	63	2080 Frederick Douglass Blvd.
1828	64	2078 Frederick Douglass Blvd.
1831	21	215 West 115 <sup>th</sup> Street
1831	47	228 West 116 <sup>th</sup> Street
1846	55	312 West 112 <sup>th</sup> Street
1922	58	274 West 117 <sup>th</sup> Street
1925	25	205 West 119 <sup>th</sup> Street
1925	27	203 West 119 <sup>th</sup> Street
2043	7	311 West 141 <sup>st</sup> Street

LAND USE DIVISION  
APR 22 2 25 PM '09

- 4. BASIS OF DISPOSITION PRICE: Nominal. Sponsor will also deliver a note and mortgage to the City for the remainder of the Disposition Area's appraised value ("Land Debt"). For a period of fifteen (15) years following completion of construction, the portion of Land Debt that encumbers the condominium units will be repayable out of resale or refinancing profits. Condominium profits from the sale or refinancing of income and price restricted condominium units will evaporate over 15 years of owner occupancy in accordance with a formula determined by HPD.
- 5. TYPE OF PROJECT: New Construction
- 6. APPROXIMATE NUMBER OF BUILDINGS: Seven
- 7. APPROXIMATE NUMBER OF UNITS: 107 dwelling units
- 8. HOUSING TYPE: Rental and Condominium. If condominium units remain unsold at the end of the Marketing Period and HPD determines in writing that (i) sale is not feasible within a reasonable time, and (ii) a rental fallback is the best available alternative, then the buildings with unsold units may be operated as rental housing in accordance with the written instructions of HPD.

20095235 HAM  
Page 2 of 2  
L.U. No. 974

- 9. ESTIMATE OF INITIAL RENTS: Rents for the rental units will be established in compliance with the requirements of lenders, where applicable, or at market levels. All rental units will be subject to rent stabilization.
- 10. ESTIMATE OF INITIAL PRICES: Prices for the condominium units will be established in compliance with the requirements of lenders, where applicable, or at market levels. Purchasers of income and price restricted condominium units must also repay the Land Debt attributable to their condominium units by delivering cash and/or notes and appropriate security instruments to the City. A portion of the Land Debt may be forgiven or unsecured based on the condominium unit's post-rehabilitation appraised value. The Land Debt attributable to a condominium unit evaporates over 15 years of owner-occupancy in accordance with a formula determined by HPD. Initial purchasers and subsequent owners of income and price restricted condominium units are also required make payments to the City out of resale or refinancing profits to the extent of the Land Debt on the condominium unit.
- 11. INCOME TARGETS: Income targets, if any, will be established in compliance with requirements of lenders.
- 12. PROPOSED FACILITIES: 2,040 square feet of commercial space  
4,694 square feet of community facility space
- 13. PROPOSED CODES/ORDINANCES: None
- 14. ENVIRONMENTAL STATUS: Type II
- 15. PROPOSED TIME SCHEDULE: Approximately 24 months from closing to completion of construction

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 986

**Report of the Committee on Land Use in favor of approving Application no. 20095297 HAM, an Urban Development Action Area Project located at 308 East 120th Street, Council District no. 8, Borough of Manhattan.**

The Committee on Land Use, to which was referred on February 11, 2009 (Minutes, page 461) the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

Proposal subject to Council review and action pursuant to the Urban Development Action Area Act, Article 16 of the New York General Municipal Law, at the request of the Department of Housing Preservation and Development ("HPD"),

ADDRESS	BLOCK/LOT	NON-ULURP NO.	L.U. NO.	PROGRAM PROJECT
308 120 <sup>th</sup> Street Interim Manhattan	1796/148	20095297 HAM	986	Tenant  Lease

**INTENT**

HPD requests that the Council:

1. Find that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the General Municipal Law;
2. Waive the area designation requirement of Section 693 of the General Municipal Law pursuant to said Section;
3. Waive the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law;
4. Approve the project as Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law; and
5. Approve an exemption of the project from real property taxes pursuant to Section 577 of the Private Housing Finance Law.

Report Summary:

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the proposals, grant the requests made by the Department of Housing Preservation and Development, and make the findings required by Article 16 of the General Municipal Law.



In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 1941

**Resolution approving an Urban Development Action Area Project located at 308 East 120<sup>th</sup> Street (Block 1796, Lot 148), Borough of Manhattan, and waiving the urban development action area designation requirement and the Uniform Land Use Review Procedure, pursuant to Sections 693 and 694 of the General Municipal Law (L.U. No. 986; 20095297 HAM).**

By Council Members Katz and Garodnick.

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on January 21, 2009 its request dated December 29, 2009 that the Council take the following actions regarding the following Urban Development Action Area Project (the "Project") located at 308 East 120<sup>th</sup> Street (Block 1796, Lot 148), Community District 11, Borough of Manhattan (the "Disposition Area"):

1. Find that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law;
2. Waive the area designation requirement of Section 693 of the General Municipal Law pursuant to said Section;
3. Waive the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law;
4. Approve the Project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law; and
5. Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of Article XI of the Private Housing Finance Law (the "Tax Exemption");

**WHEREAS**, the Project is to be developed on land that is an eligible area as defined in Section 692 of the General Municipal Law, consists solely of the rehabilitation or conservation of existing private or multiple dwellings or the construction of one- to four-unit dwellings, and does not require any change in land use permitted under the New York City Zoning Resolution;

**WHEREAS**, the project description that HPD provided to the Council states that the purchaser in connection with the Sale (the "Sponsor") is a duly organized housing development fund corporation under Article XI of the Private Housing Finance Law;

**WHEREAS**, upon due notice, the Council held a public hearing on the Project on April 20, 2009;

**WHEREAS**, the Council has considered the land use and financial implications and other policy issues relating to the Project;

**RESOLVED:**

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council waives the area designation requirement of the Disposition Area as an urban development action area under Section 693 of the General Municipal Law pursuant to said Section.

The Council waives the requirements of Sections 197-c and 197-d of the New York City Charter pursuant to Section 694 of the General Municipal Law.

The Council approves the Project as an Urban Development Action Area Project pursuant to Section 694 of the General Municipal Law.

The Project shall be disposed of and developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council approves the partial Tax Exemption as follows:

The partial tax exemption provided hereunder shall commence upon the date of conveyance of the housing project to Sponsor ("Effective Date") and shall terminate upon July 1, 2029 ("Expiration Date"); provided, however, that such partial tax exemption shall terminate if the Department of Housing Preservation and Development determines that (i) Sponsor is not organized as a housing development fund corporation, (ii) Sponsor is not operating the housing project in accordance with the requirements of Article XI of the Private Housing Finance Law, or (iii) such real property has not been, or is not being, developed, used, and/or operated in compliance with the requirements of all applicable agreements made by Sponsor with, or for the benefit of, the City of New York.

Those portions of the property included in the housing project which are devoted to business or commercial use (collectively, "Commercial Property"), if any, shall not be eligible for real property tax exemption hereunder. The Commercial Property shall be subject to full real property taxation; provided, however, that nothing herein shall prohibit Sponsor from utilizing any abatement, exemption, or other tax benefit for which the Commercial Property would otherwise be eligible.

All of the value of the property, other than the Commercial Property, included in the housing project (collectively, "Residential Property") shall be exempt from real property taxes, other than assessments for local improvements; provided, however, that Sponsor shall make a partial annual real estate tax payment on the Residential Property. Sponsor shall make such partial annual real estate tax payment on an assessed valuation equal to the lesser of (i) an amount equal to the full assessed valuation of the Residential Property, or (ii) an amount calculated by multiplying \$3500 times the number of residential units included in the housing project and increasing such product by six percent (6%) on July 1, 1990 and on July 1 of each successive year, but not by more than twenty percent (20%) in any five-year period.

**ATTACHMENT:**

20095297 HAM  
Page 1 of 1  
L.U. No. 986

**PROJECT SUMMARY**

- |   |   |
|---|---|
| 1. PROGRAM:                                 | TENANT INTERIM LEASE PROGRAM  |
| 2. PROJECT:                                 | 308 East 120 <sup>th</sup> Street   |
| 3. LOCATION:                                |   |
| a. BOROUGH:                                 | Manhattan   |
| b. COMMUNITY DISTRICT:                      | 11  |
| c. COUNCIL DISTRICT:                        | 8   |
| d. DISPOSITION AREA:                        | <u>BLOCK</u> <u>LOT</u> <u>ADDRESS</u><br>1796        148    308 East 120 <sup>th</sup> Street  |
| 4. BASIS OF DISPOSITION PRICE:              | Nominal (\$250 per dwelling unit)   |
| 5. TYPE OF PROJECT:                         | Rehabilitation  |
| 6. APPROXIMATE NUMBER OF BUILDINGS:         | 1 Multiple Dwelling   |
| 7. APPROXIMATE NUMBER OF UNITS:             | Six   |
| 8. HOUSING TYPE:                            | Cooperative   |
| 9. ESTIMATE OF INITIAL MAINTENANCE CHARGES: | Approximately \$1.15 to \$1.50 per square foot per month.   |
| 10. INCOME TARGETS:                         | The Disposition Area contains an occupied building which will be sold subject to existing tenancies. After sale, units must be resold in compliance with federal regulations, where applicable. Units not subject to such regulation may be resold to purchasers with annual household incomes up to 120% of the area median. |
| 11. PROPOSED FACILITIES:                    | None  |
| 12. PROPOSED CODES/ORDINANCES:              | None  |
| 13. ENVIRONMENTAL STATUS:                   | Type II   |
| 14. PROPOSED TIME SCHEDULE:                 | Approximately six months from authorization to sale.  |

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN,

ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1038

**Report of the Committee on Land Use in favor of approving Application no. N 090191 ZRY submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for amendment to the Zoning Resolution of the City of New York concerning the establishment of regulations pertaining to indoor, secure bicycle parking.**

The Committee on Land Use, to which was referred on March 24, 2009 (Minutes, page 938) the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

**CITYWIDE**

**N 090191 ZRY**

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, concerning the establishment of regulations pertaining to indoor, secure bicycle parking.

**INTENT**

To establish regulations pertaining to indoor, secure bicycle parking.

*Report Summary:*

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 22, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 1942

**Resolution approving the decision of the City Planning Commission on Application No. N 090191 ZRY, for an amendment of the Zoning Resolution of the City of New York, concerning the establishment of regulations pertaining to indoor, secure bicycle parking (L.U. No. 1038).**

By Council Members Katz and Avella.

**WHEREAS**, the City Planning Commission filed with the Council on March 6, 2009 its decision dated March 4, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of City Planning for an amendment of the Zoning Resolution of the City of New York, concerning the establishment of regulations pertaining to indoor, secure bicycle parking (Application No. N 090191 ZRY), Citywide (the "Application");

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on March 31, 2009;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues and the Negative Declaration issued on November 17, 2008 (CEQR No. 09DCP029Y):

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter with # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

**Article I**

**Chapter 1**

**Title, Establishment of Controls and Interpretation of Regulations**

\* \* \*

**11-337**

**Building permits issued and applications filed before (date of enactment)**

If, before (date of enactment), a building permit has been lawfully issued authorizing construction on a #zoning lot#, the provisions of N090191 ZRY, pertaining to bicycle parking, shall not apply.

If, on or before November 17, 2008, an application for a special permit or variance is pending before the Board of Standards and Appeals or an authorization or special permit from the City Planning Commission has been certified or referred to authorize construction on a #zoning lot#, the provisions of N090191 ZRY, pertaining to bicycle parking, shall not apply.

For hospitals, if, before (date of enactment), an application for a special permit or variance is pending before the Board of Standards and Appeals or an authorization or special permit from the City Planning Commission has been filed to authorize construction on a #zoning lot#, the provisions of N090191 ZRY, pertaining to bicycle parking, shall not apply.

\* \* \*

**Chapter 2**

**Construction of Language and Definitions**

\* \* \*

**12-10**

**DEFINITIONS**

Words in the text or tables of this Resolution which are #italicized# shall be interpreted in accordance with the provisions set forth in this Section.

\* \* \*

Floor area (4/16/08)

\* \* \*

However, the #floor area# of a #building# shall not include:

- (1) #cellar# space, except where such space is used for dwelling purposes. #Cellar# space used for retailing shall be included for the purpose of calculating requirements for #accessory# off-street parking spaces, #accessory# bicycle parking spaces and #accessory# off-street loading berths;

\* \* \*

Article II
Chapter 3
Bulk Regulations for Residential Buildings in Residence Districts

\* \* \*

23-12
Permitted Obstructions in Open Space

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, the following shall not be considered obstructions when located in any #open space# required on a #zoning lot#, except that no portion of such #open space# which is also a required #yard# or #rear yard equivalent#, or is needed to satisfy the minimum required area or dimensions of a #court#, may contain any obstructions not permitted in such #yard#, #rear yard equivalent# or #court#:

\* \* \*

(c) Driveways, private streets, open #accessory# off-street parking spaces, unenclosed #accessory# bicycle parking spaces or open #accessory# off-street loading berths, provided that the total area occupied by all these items does not exceed the percent of the total required #open space# on the #zoning lot#, as follows:

- (1) 50 percent in R1, R2, R3, R6, R7, R8, R9 or R10 Districts; and
(2) 66 percent in R4 or R5 Districts;

\* \* \*

23-44
Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Residence Districts#, the following shall not be considered obstructions when located within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

\* \* \*

Parking spaces for automobiles or bicycles, off-street, open, #accessory#, within a #side# or #rear yard#;

Parking spaces, off-street, open, within a #front yard#, that are #accessory# to a #residential building# where:

- (1) in R2X, R3, R4 and R5 Districts, no more than two parking spaces are required, provided such spaces are located in a permitted #side lot ribbon#;
(2) in R3, R4 and R5 Districts, more than two parking spaces are required, provided such spaces meet all the requirements of paragraph (b) of Section 25-621 (Location of parking spaces in certain districts) and the screening requirements of Section 25-66.

However, no such parking spaces shall be permitted in any #front yard# within a R1, R2 other than R2X, R4B, R5B or R5D District, and no such required spaces shall be permitted in any #front yard# within any R1, R2, R3, R4A or R4-1 District within a #lower density growth management area#.

\* \* \*

(b) In any #rear yard# or #rear yard equivalent#:

\* \* \*

Parking spaces, off-street, #accessory#, for automobiles or bicycles, provided that:

- (1) the height of a #building# used for such purposes, if #accessory# to a #single-# or #two-family residence#, shall not exceed one #story# and, if located in an R1 District, such #building# may not be nearer than five feet to a #rear lot line# or #side lot line#. In R2A Districts, detached garages shall be included in #lot coverage#;
(2) if #accessory# to any other kind of #residential building#, the height of such #accessory building# shall not exceed six feet above #curb level# in R3, R4 or R5 Districts, or fourteen feet above #curb level# in R6, R7, R8, R9 or R10 Districts;
(3) enclosed #accessory# parking spaces for bicycles shall be #accessory# to a #residence# other than a #single-# or #two-family residence#, attached to a #building#, and the area dedicated to such spaces shall not exceed the area of bicycle parking spaces permitted to be excluded from #floor area# pursuant to Section 25-85 (Floor Area Exemption).

\* \* \*

Article II
Chapter 4
Bulk Regulations for Community Facility Buildings in Residence Districts

\* \* \*

24-33
Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Residence Districts#, the following shall not be considered obstructions when located within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

\* \* \*

Parking spaces for automobiles or bicycles, off-street, open, #accessory#;

\* \* \*

(b) In any #rear yard# or #rear yard equivalent#:

\* \* \*

Any #building# or portion of a #building# used for #community facility uses#, including #accessory# parking spaces for bicycles within such #building#, provided that the height of such #building# shall not exceed one #story#, nor in any event 23 feet above #curb level#, and further provided that the area within such #building# dedicated to #accessory# parking spaces for bicycles shall not exceed the area permitted to be excluded from #floor area# pursuant to Section 25-85 (Floor Area Exemption). However, the following shall not be permitted obstructions:

\* \* \*

Article II
Chapter 5
Accessory Off-Street Parking and Loading Regulations

\* \* \*

25-00
GENERAL PURPOSES AND DEFINITIONS

**25-01  
General Purposes**

The following regulations on permitted and required accessory off-street parking spaces and accessory bicycle parking spaces are adopted in order to provide needed space off the streets for parking in connection with new residences, to reduce traffic congestion resulting from the use of streets as places for storage of automobiles, to protect the residential character of neighborhoods, to provide for a higher standard of residential development within the City, and thus to promote and protect public health, safety and general welfare.

**25-02  
Applicability**

Except as otherwise provided in this Section, the regulations of this Chapter on permitted or required accessory off-street parking spaces and accessory bicycle parking spaces apply to residences, community facility uses or commercial uses, as set forth in the provisions of the various Sections.

\* \* \*

**25-80  
BICYCLE PARKING**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, bicycle parking spaces shall be provided in accordance with the requirements set forth in this Section, inclusive, as a condition precedent to the use of such development, enlargement, dwelling unit, conversion, group parking facility or open parking area.

The provisions of this Section 25-80, inclusive, shall apply to:

- (a) developments;
- (b) enlargements that increase the floor area within a building by 50 percent or more;
- (c) dwelling units created by conversions of non-residential floor area;
- (d) new dwelling units in residential buildings or building segments constructed after (date of enactment);
- (e) new enclosed accessory group parking facilities with 35 or more automobile parking spaces; and
- (f) open parking areas accessory to commercial or community facility uses that contain 18 or more automobile parking spaces or are greater than 6,000 square feet in area.

In addition, the provisions of Section 25-85 (Floor Area Exemption) shall apply to all buildings as set forth therein.

The number of accessory bicycle parking spaces provided pursuant to this Section, the total of the area, in square feet, of bicycle parking spaces and the total of any area, in square feet, excluded from floor area for such spaces shall be noted on the Certificate of Occupancy.

**25-81  
Required Bicycle Parking Spaces**

**25-811  
Enclosed bicycle parking spaces**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, enclosed accessory bicycle parking spaces shall be provided for at least that amount specified for the applicable use set forth in the table below. For the purposes of calculating the number of required bicycle parking spaces, any fraction of a space 50 percent or greater shall be counted as an additional space. For residences, the accessory bicycle parking requirement shall be calculated separately for separate buildings or building segments.

Where any building or zoning lot contains two or more uses having different bicycle parking requirements as set forth in the following table, the bicycle parking requirements for each type of use shall apply to the extent of that use.

Where an enclosed accessory group parking facility is provided, the required number of bicycle parking spaces for the use to which such facility is accessory shall be the amount set forth for such use in the table below, or one for every 10 automobile parking spaces that are enclosed within a building or other structure or located on the roof of a building, whichever will require a greater number of bicycle parking spaces.

**REQUIRED BICYCLE PARKING SPACES FOR RESIDENTIAL OR COMMUNITY FACILITY USES**

Type of Use	Bicycle Parking Spaces Required in Relation to Specified Unit of Measurement
<b>FOR RESIDENTIAL USES</b>	
Use Group 1	None required
Use Group 2	1 per 2 dwelling units
Non-profit residences for the elderly or dwelling units for the elderly as specified in paragraph (d) of Section 25-25	1 per 10,000 square feet of floor area
<b>FOR COMMUNITY FACILITY USES*</b>	
College or school student dormitories or fraternity and sorority student houses	1 per 2,000 square feet of floor area
Colleges, universities, or seminaries (a) Classrooms, laboratories, student centers or offices	1 per 5,000 square feet of floor area**
(b) Theaters, auditoriums, gymnasiums or stadiums	1 per 20,000 square feet of floor area**
Libraries, museums or non-commercial art galleries	1 per 20,000 square feet of floor area
Monasteries, convents or novitiates; houses of worship, rectories or parish houses; Use Group 4B	None required
All other Use Group 3 and Use Group 4 uses not otherwise listed in this table	1 per 10,000 square feet of floor area

\* Non-profit hospital staff dwellings shall be subject to the requirements for Use Group 2 residential uses.

\*\* Up to half of these spaces may be provided as unenclosed bicycle parking spaces pursuant to the requirements of Section 25-83 (Restrictions on Operation, Size and Location of Enclosed Bicycle Parking Spaces).

However, the bicycle parking requirements set forth in the above table shall be waived for bicycle parking spaces that are accessory to:

- (a) residential buildings or residential building segments containing 10 dwelling units or less;
- (b) colleges, universities, or seminaries where the number of required bicycle parking spaces is six or less;
- (c) college or school student dormitories or fraternity and sorority student houses where the number of required bicycle parking spaces is five or less; or
- (d) all other community facility uses not otherwise listed in the above table where the number of required bicycle parking spaces is three or less.

**25-812  
Unenclosed bicycle parking spaces**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, for open parking areas accessory to community facility uses that contain 18 or more spaces or are greater than 6,000 square feet in area, which meet the applicability standards of Section 25-67 (Parking Lot Landscaping), unenclosed accessory bicycle parking spaces shall be provided as follows:

- (a) One bicycle parking space shall be provided for every ten vehicle parking spaces, up to 200 vehicle parking spaces. Thereafter, one bicycle parking space shall be provided for every 100 vehicle parking spaces. Fractions equal to or greater than one-half resulting from this calculation shall be considered to be one bicycle space.

- (b) Each bicycle rack shall allow for the bicycle frame and at least one wheel to be locked to the rack. If bicycles can be locked to each side of the rack without conflict, each side may be counted toward a required space. Thirty inches of maneuverable space shall be provided between parallel bicycle racks and a 96 inch wide aisle shall be provided between bicycle rack areas.
- (c) Bicycle racks shall be provided within 50 feet of a main entrance of a #building# and a minimum of 24 inches from any wall. However, if more than 40 bicycle parking spaces are required, 50 percent of such spaces may be provided at a distance of up to 100 feet from the main entrance of a #building#. Department of Transportation bicycle racks provided on a fronting sidewalk may be counted toward this requirement, provided such racks meet the standards of this paragraph, (c).

**25-82**  
**Authorization for Reduction of Spaces**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the City Planning Commission may authorize a reduction in the number of required bicycle parking spaces set forth in Section 25-811 (Enclosed bicycle parking spaces), or a waiver of all such spaces, upon finding there are subsurface conditions, below-ground infrastructure or other site planning constraints that would make accommodating such bicycle parking spaces on or below the first #story# of the #building# infeasible. The Commission may request reports from licensed engineers or registered architects in considering such reduction.

**25-83**  
**Restrictions on Operation, Size and Location of Enclosed Bicycle Parking Spaces**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, all #accessory# bicycle parking spaces shall be provided on the same #zoning lot# as the #building# or #use# to which such spaces are #accessory#, except as provided in Section 25-84 (Certification for Off-Site Bicycle Parking Spaces).

All enclosed #accessory# bicycle parking spaces shall be surrounded on all sides by a solid enclosure, except where a parking garage is open at the sides, and covered by a roof for weather protection. Each bicycle space shall adjoin a rack or similar system for securing the bicycle. Bicycle parking spaces shall be located in an area secured by a lock or similar means, or adjoin a securely anchored rack to which the bicycle frame and at least one wheel can be locked. Fifteen square feet of area shall be provided for each bicycle space. However, the area for each bicycle space may be reduced by up to nine square feet per bicycle if the Commissioner of Buildings certifies that a layout has been submitted to adequately accommodate the specified number of bicycles.

A plaque shall be placed at the exterior of the entry to the bicycle parking area, outside any locked door, with lettering at least three-quarter inches in height stating "Bicycle Parking."

For colleges, universities, or seminaries, one-half of required enclosed #accessory# bicycle parking spaces may be provided as open unenclosed spaces, provided that such spaces meet the standards of Section 25-812 (Unenclosed bicycle parking spaces), paragraph (b).

All bicycle parking spaces which are #accessory# to #residences# shall be made available for the storage and independent access of the bicycles used by the occupants of such #residences#.

All required bicycle parking spaces which are #accessory# to a #community facility use# shall be made available for the storage and independent access of the bicycles used by the employees of such #use#, except that bicycle parking spaces #accessory# to colleges or universities shall be accessible to all authorized users of such #building#, and that bicycle parking spaces #accessory# to #community facilities# with sleeping accommodations may be accessible to the occupants of such facility.

Bicycle spaces may be located in a room secured by a lock or similar means, provided that access is through a commonly accessible area and access is made available to eligible users on an equal basis.

**25-84**

**Certification for Off-Site Bicycle Parking Spaces**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, for colleges, universities, seminaries, hospitals and related facilities, except animal hospitals, #accessory# bicycle parking spaces required pursuant to Section 25-811 (Enclosed bicycle parking spaces) may be provided on a #zoning lot# other than the same #zoning lot# as the #use# to which such spaces are #accessory#, provided that the Chairperson of the City Planning Commission certifies to the Department of Buildings that all such bicycle parking spaces are:

- (a) located on a #zoning lot# not further than 1,000 feet from the nearest boundary of the #zoning lot# occupied by the #use# to which they are #accessory#; or within a subsurface parking and other service facility that serves multiple #zoning lots#, including the #zoning lot# occupied by the #use# to which they are #accessory#; and
- (b) subject to deed restrictions filed in an office of record, binding the owner and his heirs and assigns to maintain the required number of spaces as accessible throughout the life of the #use# generating the #accessory# bicycle parking spaces.

A plaque shall be placed within 30 feet of a #building# entrance, with lettering at least three-quarter inches in height stating "Bicycle Parking" followed by information directing users to the address of the off-site location.

The number of off-site #accessory# bicycle parking spaces provided pursuant to this Section and the area of such bicycle parking spaces, in square feet, shall be noted on the Certificate of Occupancy for both the #building# in which the off-site bicycle parking spaces are located, and the #building# to which such bicycle parking spaces are #accessory#.

**25-85**  
**Floor Area Exemption**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, space provided for enclosed #accessory# bicycle parking spaces pursuant to the standards of this section shall be excluded from the definition of #floor area#, provided that:

- (a) the space excluded from #floor area# does not exceed an amount equal to 15 square feet multiplied by the number of required spaces, or if spaces are waived pursuant to paragraphs (a), (b), (c) or (d) of Section 25-811 (Enclosed bicycle parking spaces), the number that would have been required but for the waiver; and
- (b) the #accessory# bicycle parking spaces provided meet the standards for required bicycle parking of Section 25-83 (Restrictions on Operation, Size and Location of Enclosed Bicycle Parking Spaces).

Notwithstanding the provisions of paragraph (a) of this section, for the following #uses#, the amount of space that may be excluded from the definition of #floor area# shall not exceed an amount equal to 15 square feet multiplied by the number of spaces set forth in the table below.

MAXIMUM BICYCLE PARKING SPACES EXCLUDED FROM #FLOOR AREA#

33-23

Permitted Obstructions in Required Yards or Rear Yard Equivalents

In all #Commercial Districts#, the following shall not be considered obstructions when located within a required #yard# or #rear yard equivalent#:

(a) In any #yard# or #rear yard equivalent#:

\* \* \*

Parking spaces for automobiles or bicycles, off-street, open, #accessory#;

\* \* \*

(b) In any #rear yard# or #rear yard equivalent#:

\* \* \*

Parking spaces for automobiles or bicycles, off-street, #accessory# provided that the height of an #accessory building# used for such purposes and located in a required #rear yard# or #rear yard equivalent# shall not exceed 23 feet above #curb level#;

\* \* \*

Article III

Chapter 6

Accessory Off-Street Parking and Loading Regulations

\* \* \*

36-01

General Purposes

The following regulations on permitted and required accessory off-street parking spaces and #accessory# bicycle parking spaces are adopted in order to provide parking spaces off the streets sufficient to give necessary access to developing centers of commerce outside the high density central areas, to reduce traffic congestion caused by parking on the streets, to prevent substantial amounts of traffic from circulating in and parking on residential streets surrounding commercial centers, to provide for a higher standard of commercial development within the City and thus to promote and protect public health, safety and general welfare.

36-02

Applicability of District Regulations

Except as otherwise provided in this Section, the regulations of this Chapter on permitted and required #accessory# off-street parking spaces and #accessory# bicycle parking spaces apply to #residences#, #community facility uses# or #commercial uses#, as set forth in the provisions of the various Sections. In addition, the regulations of this Chapter, or of specified Sections thereof, also apply in other provisions of this Resolution where they are incorporated by cross reference.

\* \* \*

36-70

BICYCLE PARKING

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, bicycle parking spaces shall be provided in accordance with the requirements set forth in this Section, inclusive, as a condition precedent to the #use# of such #development#, #enlargement#, #dwelling unit#, conversion, #group parking facility# or open parking area.

In all districts, as indicated, the provisions of this Section 36-70, inclusive, shall apply to:

(a) #developments#;

\* \* \*

Article III

Chapter 3

Bulk Regulations for Commercial or Community Facility Buildings in Commercial Districts

\* \* \*

Type of #Use#	Maximum Bicycle Parking Spaces Excluded from #Floor Area# in Relation to Specified Unit of Measurement
FOR RESIDENTIAL USES	
#Non-profit residences for the elderly# or #dwelling units# for the elderly as specified in paragraph (d) of Section 25-25	1 per 2,000 square feet of #floor area#
FOR COMMUNITY FACILITY USES*	
Philanthropic or non-profit institutions with sleeping accommodations	1 per 2,000 square feet of #floor area#
Proprietary, non-profit or voluntary hospitals and related facilities, except animal hospitals	1 per 5,000 square feet of #floor area#

However, in no event shall this Section apply to #single-# or #two-family residences#; and in no event shall this Section apply to #accessory# bicycle parking spaces provided off-site pursuant to Section 25-84 (Certification for Off-Site Bicycle Parking Spaces).

Space provided for #accessory# bicycle parking spaces within an #accessory group parking facility# shall not be counted as #floor area# provided that the surrounding #group parking facility# is not #floor area#.

25-86

Waiver or Reduction of Spaces for Subsidized Housing

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except in the Special Southern Hunters Point District, the number of required bicycle parking spaces set forth in Section 25-811 (Enclosed bicycle parking spaces) may be reduced or waived by the Commissioner of Buildings, provided that the Commissioner of the Department of Housing Preservation and Development has submitted a letter certifying that:

- (a) at least 50 percent of the #dwelling units# in the #building# or #building segment# will be income restricted pursuant to the provisions of Section 23-90 (Inclusionary Housing Program) or pursuant to the terms of a grant, loan or subsidy from any federal, state or local agency or instrumentality, including, but not limited to, the disposition of real property for less than market value, purchase money financing, construction financing, permanent financing, the utilization of bond proceeds and allocations of low income housing tax credits. An exemption or abatement of real property taxes shall not qualify as a grant, loan or subsidy for the purposes of this paragraph;
- (b) there is insufficient space within the #building# to accommodate the required number of bicycle parking spaces on or below the first #story# of the #building#, including within an enclosed #accessory group parking facility#;
- (c) if permitted automobile parking spaces are provided, the required bicycle spaces cannot be accommodated within an enclosed #group parking facility# by reconfiguring automobile parking spaces or removing three or fewer permitted automobile parking spaces;
- (d) additional space cannot reasonably be constructed based on the amount of subsidy available to the project; and
- (e) the number of required bicycle parking spaces is being reduced by the minimum amount necessary to address these limitations.

- (b) #enlargements# that increase the #floor area# within a #building# by 50 percent or more;
- (c) #dwelling units# created by conversions of non-#residential floor area#;
- (d) new #dwelling units# in #residential buildings# or #building segments# constructed after (date of enactment);
- (e) new enclosed #accessory group parking facilities# with 35 or more automobile parking spaces; and
- (f) open parking areas #accessory# to #commercial# or #community facility uses# that contain 18 or more automobile parking spaces or are greater than 6,000 square feet in area.

In addition, the provisions of Section 36-75 (Floor Area Exemption) shall apply to all #buildings# as set forth therein.

Bicycle parking spaces shall be provided in accordance with the requirements set forth in this Section, inclusive, as a condition precedent to the #use# of such #development#, #enlargement#, conversion, #group parking facility# or open parking area.

The number of #accessory# bicycle parking spaces provided pursuant to this Section, the total of the area, in square feet, of bicycle parking spaces and the total of any area, in square feet, excluded from #floor area# for such spaces shall be noted on the Certificate of Occupancy.

**36-71**  
**Required Bicycle Parking Spaces**

**36-711**  
**Enclosed bicycle parking spaces**

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, enclosed #accessory# bicycle parking spaces shall be provided for at least that amount specified for the applicable #use# set forth in the table below.

For the purposes of calculating the number of required bicycle parking spaces, any fraction of a space 50 percent or greater shall be counted as an additional space. For #residences#, the #accessory# bicycle parking requirement shall be calculated separately for separate #buildings# or #building segments#.

Where any #building# or #zoning lot# contains two or more #uses# having different bicycle parking requirements as set forth in the following table, the bicycle parking requirements for each type of #use# shall apply to the extent of that #use#.

Where an enclosed #accessory group parking facility# is provided, the required number of bicycle parking spaces for the #use# to which such facility is #accessory# shall be the amount set forth for such #use# in the table below, or one for every 10 automobile parking spaces that are enclosed within a #building or other structure# or located on the roof of a #building#, whichever will require a greater number of bicycle parking spaces.

**REQUIRED BICYCLE PARKING SPACES FOR RESIDENTIAL,  
COMMUNITY FACILITY OR COMMERCIAL USES**

Type of #Use#	Bicycle Parking Spaces Required in Relation to Specified Unit of Measurement
FOR RESIDENTIAL USES	
Use Group 1	None required
Use Group 2	1 per 2 #dwelling units#
#Non-profit residences for the elderly# or #dwelling units# for the elderly as specified in paragraph (d) of Section 36-35	1 per 10,000 square feet of #floor area#
FOR COMMUNITY FACILITY USES*	

College or #school# student dormitories or fraternity and sorority student houses	1 per 2,000 square feet of #floor area#
Colleges, universities, or seminaries (a) Classrooms, laboratories, student centers or offices	1 per 5,000 square feet of #floor area#**
(b) Theaters, auditoriums, gymnasiums or stadiums	1 per 20,000 square feet of #floor area#**
Libraries, museums or non-commercial art galleries	1 per 20,000 square feet of #floor area#
Monasteries, convents or novitiates; houses of worship, rectories or parish houses; Use Group 4B	None required
All other Use Group 3 and Use Group 4 #uses# not otherwise listed in this table	1 per 10,000 square feet of #floor area#
<b>FOR COMMERCIAL USES</b>	
General retail or service #uses#. Use Groups 6A, 6C, 7B, 9A, 10A, 12B, 13B or 14A (except docks for vessels, other than #gambling vessels#); Eating and drinking establishments in all Use Groups	1 per 10,000 square feet of #floor area#
Use Group 6B	1 per 7,500 square feet of #floor area#
Use Group 5A, 6E, 7A, 7D, 8B, 12A (except eating and drinking establishments), 13A 14B, 15A, 16B, or 16C; automobile rental establishments	1 per 10,000 square feet of #floor area#
Use Group 8A, 12A, theaters	1 per 20,000 square feet of #floor area#
#Public parking garages#	1 per 10 automobile parking spaces
Use Group 13A (except theaters), 15A, 16B, 16C, and all other #commercial uses# not otherwise listed	None required

\* #Non-profit hospital staff dwellings# shall be subject to the requirements for UG 2 #residential uses#.

\*\* Up to half of these spaces may be provided as unenclosed bicycle parking spaces pursuant to the requirements of Section 36-73 (Restrictions on Operation, Size and Location of Enclosed Bicycle Parking Spaces).

However, the bicycle parking requirements set forth in the above table shall be waived for bicycle parking spaces that are accessory to:

- (a) #residential buildings# containing 10 #dwelling units# or less;
- (b) colleges, universities, or seminaries where the number of required enclosed bicycle parking spaces is six or less;
- (c) college or #school# student dormitories or fraternity and sorority student houses where the number of required bicycle parking spaces is five or less; or
- (d) all other #community facility# or #commercial uses# not otherwise listed in the above table where the number of required bicycle parking spaces is three or less.

**36-712**  
**Unenclosed bicycle parking spaces**

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, for open parking areas #accessory# to #commercial# or #community facility uses# that contain 18 or more spaces or are greater than 6,000 square feet in area, which meet the applicability standards of Section 37-91 (Applicability), unenclosed bicycle parking spaces shall be provided as follows:

- (a) One bicycle parking space shall be provided for every ten vehicle parking spaces, up to 200 vehicle parking spaces. Thereafter, one bicycle parking space shall be provided for every 100 vehicle parking spaces. Fractions equal to or greater than one-half resulting from this calculation shall be considered to be one bicycle space.

- (b) Each bicycle rack shall allow for the bicycle frame and at least one wheel to be locked to the rack. If bicycles can be locked to each side of the rack without conflict, each side may be counted toward a required space. Thirty inches of maneuverable space shall be provided between parallel bicycle racks and a 96 inch wide aisle shall be provided between bicycle rack areas.
- (c) Bicycle racks shall be provided within 50 feet of a main entrance of a #building# and a minimum of 24 inches from any wall. However, if more than 40 bicycle parking spaces are required, 50 percent of such spaces may be provided at a distance of up to 100 feet from the main entrance of a #building#. Department of Transportation bicycle racks provided on a fronting sidewalk may be counted toward this requirement, provided such racks meet the standards of this paragraph, (c).

**36-72****Authorization for Reduction of Spaces**

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, the City Planning Commission may authorize a reduction in the number of required bicycle parking spaces set forth in Section 36-711 (Enclosed bicycle parking spaces) or a waiver of all such spaces, upon finding there are subsurface conditions, below-ground infrastructure or other site planning constraints that would make accommodating such bicycle parking spaces on or below the first #story# of the #building# infeasible. The Commission may request reports from licensed engineers or registered architects in considering such reduction.

**36-73****Restrictions on Operation, Size and Location of Bicycle Parking Spaces**

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, all #accessory# bicycle parking spaces shall be provided on the same #zoning lot# as the #building# or #use# to which such spaces are #accessory#, except as provided in Section 36-74 (Certification for Off-Site Bicycle Parking Spaces).

All enclosed #accessory# bicycle parking spaces shall be surrounded on all sides by a solid enclosure, except where a parking garage is open at the sides, and covered by a roof for weather protection. Each bicycle space shall adjoin a rack or similar system for securing the bicycle. Bicycle parking spaces shall be located in an area secured by a lock or similar means, or adjoin a securely anchored rack to which the bicycle frame and at least one wheel can be locked. Fifteen square feet of area shall be provided for each bicycle space. However, the area for each bicycle space may be reduced by up to nine square feet per bicycle if the Commissioner of Buildings certifies that a layout has been submitted to adequately accommodate the specified number of bicycles.

A plaque shall be placed at the exterior of the entry to the bicycle parking area, outside any locked door, with lettering at least three-quarter inches in height stating "Bicycle Parking."

All required bicycle parking spaces which are #accessory# to #residences# shall be made available for the storage and independent access of the bicycles used by the occupants of such #residences#.

All required bicycle parking spaces which are #accessory# to a #commercial# or #community facility use# shall be made available for the storage and independent access of the bicycles used by the employees of such #use#, except that bicycle parking spaces #accessory# to colleges or universities must be accessible to all authorized users of such #building#, and that bicycle parking spaces #accessory# to #community facilities# with sleeping accommodations may be accessible to the occupants of such facility.

Bicycle spaces may be located in a room secured by a lock, or similar means, provided that access is through a commonly accessible area and access is made available to eligible users on an equal basis.

- (a) For colleges, universities, or seminaries, one-half of required #accessory# bicycle parking spaces shall be permitted to be provided as open unenclosed spaces, provided that such spaces meet the standards of Section 36-712 (Unenclosed bicycle parking spaces), paragraph (b).
- (b) For #public parking garages#, the required information plaque shall be provided at each point of bicycle entry to the #public parking garage#, mounted with its center between four and six feet above the ground,

directly visible and unobstructed from the #street#. The entry plaque shall contain:

a bicycle symbol which is 12 inches square in dimension with a highly contrasting background, as shown in this paragraph, (b). The symbol shall match exactly the symbol provided in the digital file at the Department of City Planning website (<http://www.nyc.gov/TBD>).

**36-74****Certification for Off-Site Bicycle Parking Spaces**

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, for colleges, universities, seminaries, hospitals and related facilities, except animal hospitals, #accessory# bicycle parking spaces required pursuant to Section 36-711 (Enclosed bicycle parking spaces) may be provided on a #zoning lot# other than the same #zoning lot# as the #use# to which such spaces are #accessory#, provided that the Chairperson of the City Planning Commission certifies to the Department of Buildings that all such bicycle parking spaces are:

- (a) located on a #zoning lot# not further than 1,000 feet from the nearest boundary of the #zoning lot# occupied by the #use# to which they are #accessory#; or within a subsurface parking and other service facility that serves multiple #zoning lots#, including the #zoning lot# occupied by the #use# to which they are #accessory#; and
- (b) subject to deed restrictions filed in an office of record, binding the owner and his heirs and assigns to maintain the required number of spaces as accessible throughout the life of the #use# generating the #accessory# bicycle parking spaces.

A plaque shall be placed within 30 feet of an entrance of the #building#, with lettering at least three-quarter inches in height stating "Bicycle Parking" followed by information directing users to the address of the off-site location.

The number of off-site #accessory# bicycle parking spaces provided pursuant to this Section and the area of such bicycle parking spaces, in square feet, shall be noted on the Certificate of Occupancy for both the #building# in which the off-site bicycle parking spaces are located, and the #building# to which such bicycle parking spaces are #accessory#.

**36-75****Floor Area Exemption**

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, space provided for enclosed #accessory# bicycle parking spaces pursuant to the standards of this section shall be excluded from the definition of #floor area#, provided that:

- (a) the space excluded from #floor area# does not exceed an amount equal to 15 square feet multiplied by the number of required spaces, or if spaces are waived pursuant to paragraphs (a), (b), (c) or (d) of Section 36-711 (Enclosed bicycle parking spaces), the number that would have been required but for the waiver; and
- (b) the #accessory# bicycle parking spaces provided meet the standards for required bicycle parking of Section 36-73 (Restrictions on Operation, Size and Location of Bicycle Parking Spaces).

Notwithstanding the provisions of paragraph (a) of this section, for the following #uses#, the amount of space that may be excluded from the definition of



#floor area# shall not exceed an amount equal to 15 square feet multiplied by the number of spaces set forth in the table below.

**MAXIMUM BICYCLE PARKING SPACES EXCLUDED FROM #FLOOR AREA#**

Type of #Use#	Maximum Bicycle Parking Spaces Excluded from #Floor Area# in Relation to Specified Unit of Measurement
FOR RESIDENTIAL USES	
#Non-profit residences for the elderly# or #dwelling units# for the elderly as specified in paragraph (d) of Section 36-35	1 per 2,000 square feet of #floor area#
FOR COMMUNITY FACILITY USES	
Philanthropic or non-profit institutions with sleeping accommodations	1 per 2,000 square feet of #floor area#
Proprietary, non-profit or voluntary hospitals and related facilities, except animal hospitals	1 per 5,000 square feet of #floor area#

However, in no event shall this Section apply to #single-# or #two-family residences#; and in no event shall this Section apply to #accessory# bicycle parking spaces provided off-site pursuant to Section 36-74 (Certification for Off-Site Bicycle Parking Spaces).

Space provided for #accessory# bicycle parking spaces within an #accessory group parking facility# shall not be counted as #floor area# provided that the surrounding #group parking facility# is not #floor area#.

**36-76 Waiver or Reduction of Spaces for Subsidized Housing**

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, except in the Special Willets Point District and the Special St. George District, the number of required bicycle parking spaces set forth in Section 36-711 (Enclosed bicycle parking spaces) may be reduced or waived by the Commissioner of Buildings, provided that the Commissioner of the Department of Housing Preservation and Development has submitted a letter certifying that:

- (a) at least 50 percent of the #dwelling units# in the #building# or #building segment# will be income restricted pursuant to the provisions of Section 23-90 (Inclusionary Housing Program) or pursuant to the terms of a grant, loan or subsidy from any federal, state or local agency or instrumentality, including, but not limited to, the disposition of real property for less than market value, purchase money financing, construction financing, permanent financing, the utilization of bond proceeds and allocations of low income housing tax credits. An exemption or abatement of real property taxes shall not qualify as a grant, loan or subsidy for the purposes of this paragraph;
- (b) there is insufficient space within the #building# to accommodate the required number of bicycle parking spaces on or below the first #story# of the #building#, including within an enclosed #accessory group parking facility#.
- (c) if permitted automobile parking spaces are provided, the required bicycle spaces cannot be accommodated within an enclosed #group parking facility# by reconfiguring automobile parking spaces or removing three or fewer permitted automobile parking spaces;
- (d) additional space cannot reasonably be constructed based on the amount of subsidy available to the project; and
- (e) the number of required bicycle parking spaces is being reduced by the minimum amount necessary to address these limitations.

\* \* \*

**Article III  
Chapter 7  
Special Urban Design Regulations**

\* \* \*

**37-96  
Bicycle Parking**

One bicycle parking space shall be provided for every ten vehicle parking spaces, up to 200 vehicle parking spaces. Thereafter, one bicycle parking space shall be provided for every 100 vehicle parking spaces. Fractions equal to or greater than one-half resulting from this calculation shall be considered to be one bicycle space. Bicycle parking must be provided in inverted "U" shaped parking racks. Each rack must be located within a two foot by six foot area on the #zoning lot#. Thirty inches of maneuverable space shall be provided between parallel bicycle racks and a 96 inch wide aisle shall be provided between bicycle rack areas. Each rack shall count towards two required spaces.

Bicycle racks shall be provided within 50 feet of a building's main entrance and a minimum of 24 inches from any wall. However, if more than 40 bicycle parking spaces are required, 50 percent of such spaces may be provided at a distance of up to 100 feet from a building's main entrance. Department of Transportation bicycle racks provided on a fronting sidewalk may be counted toward this requirement.

**37-9796  
Modifications of Design Standards**

\* \* \*

**37-971961  
Modification of landscaping requirements**

\* \* \*

**37-972962  
Modification of design requirements by authorization**

\* \* \*

**37-9897  
Landscaping Selection Lists**

\* \* \*

**37-981971  
Selection list for perimeter trees**

\* \* \*

**37-982972  
Selection list for interior trees**

\* \* \*

**37-983973  
Selection list for ground covers and shrubs**

\* \* \*

**Article IV  
Chapter 3  
Bulk Regulations**

\* \* \*

**43-23  
Permitted Obstructions in Required Yards or Rear Yard Equivalents**

In all #Manufacturing Districts#, the following shall not be considered obstructions when located within a required #yard# or #rear yard equivalent#:

- (a) In any #yard# or #rear yard equivalent#:

\* \* \*

Parking spaces for automobiles or bicycles, off-street, open, #accessory#;

\* \* \*

(b) In any #rear yard# or #rear yard equivalent#:

\* \* \*

Parking spaces for automobiles or bicycles, off-street, #accessory#, provided that the height of an #accessory building# used for such purposes and located in a required #rear yard# or #rear yard equivalent# shall not exceed 23 feet above #curb level#;

\* \* \*

Article IV
Chapter 4
Accessory Off-Street Parking and Loading Regulations

44-60
BICYCLE PARKING

M1 M2 M3

In all districts, as indicated, the provisions of Section 36-70 (BICYCLE PARKING), inclusive, shall apply to all permitted #commercial# and #residential uses#. In addition, for #manufacturing uses#, #accessory# bicycle parking spaces shall be excluded from the definition of #floor area#, provided that:

- (a) the space excluded from #floor area# does not exceed an amount equal to 15 square feet multiplied by one bicycle parking space per 10,000 square feet of #floor area#;
(b) the #accessory# bicycle parking spaces provided meet the standards for #accessory# bicycle parking of Section 36-73 (Restrictions on Operation, Size and Location of Bicycle Parking Spaces);

However, in no event shall #accessory# bicycle parking spaces be excluded from the definition of #floor area# in the case of #single-# or #two-family residences# or in the case of #accessory# bicycle parking spaces provided off-site pursuant to Section 36-74 (Certification for Off-Site Bicycle Parking Spaces).

Space provided for #accessory# bicycle parking spaces within an #accessory group parking facility# shall not be counted as #floor area# provided that the surrounding #group parking facility# is not #floor area#.

The number of #accessory# bicycle parking spaces provided pursuant to this Section, the total of the area, in square feet, of bicycle parking spaces and the total of any area, in square feet, excluded from #floor area# for such spaces shall be noted on the Certificate of Occupancy.

\* \* \*

Article VII
Chapter 4
Special Permits by the City Planning Commission

\* \* \*

74-745
Location of accessory parking spaces and loading berths

When a #general large-scale development# includes two or more #zoning lots#, the City Planning Commission may permit permitted or required #accessory# off-street parking spaces, bicycle parking spaces or loading berths to be located anywhere within a #general large-scale development# without regard for #zoning lot lines#, provided that the Commission shall find:

- (a) such off-street parking spaces, bicycle parking spaces and loading berths will be conveniently located in relation to the #use# to which such spaces or berths are #accessory#;
(b) such location of off-street parking spaces, bicycle parking spaces and loading berths will result in a better site plan; and
(c) such location of off-street parking spaces, bicycle parking spaces and loading berths will not unduly increase the number of spaces in any single #block#, draw excessive traffic through local #streets#, or otherwise adversely affect traffic conditions in the surrounding area.

Whenever required off-street parking spaces, bicycle parking spaces and loading berths are permitted to be located without regard for #zoning lot lines# in accordance with the provisions of this Section, the number of spaces required for each #building# shall be kept available for such #building# throughout its life.

\* \* \*

Article VII
Chapter 8
Special Regulations Applying to Large-Scale Residential Developments

\* \* \*

78-40
OFF-STREET PARKING REGULATIONS

78-41
Location of Accessory Parking Spaces

When a #large-scale residential development# includes, or will include after subdivision, two or more #zoning lots#, the City Planning Commission may, upon application, authorize permitted or required #accessory# off-street parking spaces or bicycle parking spaces to be located anywhere within the #development# without regard for #zoning lot lines#, provided that in each case the Commission shall make the following special findings:

- (a) that such off-street parking spaces or bicycle parking spaces will be conveniently located in relation to the #use# or #uses# to which such spaces are #accessory#;
(b) that such location of the off-street parking spaces or bicycle parking spaces will permit better site planning and will thus benefit both the owners, occupants, employees, customers, residents or visitors of the #development# and the City as a whole; and
(c) that such location of the off-street parking spaces or bicycle parking spaces will not increase the number of spaces in any single #block# or the traffic drawn through any one or more of the nearby local #streets# in such measure as to affect adversely other #zoning lots# outside the #development# or traffic conditions in the surrounding area.

Whenever required off-street parking spaces or bicycle parking spaces are authorized to be located without regard for #zoning lot lines# in accordance with the provisions of this Section, the number of spaces required for each #building# or #use# shall be kept available for such #building# or #use# throughout its life. Whenever any #zoning lot# within such a #large-scale residential development# is subdivided into two or more #zoning lots#, such subdivision shall be subject to the provisions of Section 78-51 (General Provisions).

\* \* \*

Article VII
Chapter 9
Special Regulations Applying to Large-Scale Community Facility Developments

\* \* \*

79-30
PARKING REGULATIONS

79-31

Location of Parking Spaces

When a #large-scale community facility development# includes two or more #zoning lots#, the City Planning Commission may, upon application authorize permitted or required #accessory# off-street parking spaces or bicycle parking spaces to be located anywhere within the #development# without regard for #zoning lot lines#, provided that in each case the Commission shall make the following special findings:

- (a) that such off-street parking spaces or bicycle parking spaces will be conveniently located in relation to the #use# or #uses# to which such spaces are #accessory#;
(b) that such location of the off-street parking spaces or bicycle parking spaces will permit better site planning and will thus benefit both the owners, occupants, employees, customers, residents, or visitors of the #development# and the City as a whole; and
(c) that such location of the off-street parking spaces or bicycle parking spaces will not increase the number of spaces in any single #block# or the traffic drawn through any one or more of the nearby local #streets# in such measure as to affect adversely other #zoning lots# outside the #development# or traffic conditions in the surrounding area.

Whenever required off-street parking spaces or bicycle parking spaces are authorized to be located without regard for #zoning lot lines# in accordance with the provisions of this Section, the number of spaces required for each #building# or #use# shall be kept available for such #building# or #use# throughout its life.

\* \* \*

Article IX - Special Purpose Districts
Chapter 3
Special Hudson Yards District

\* \* \*

93-85
Indoor Bicycle Parking

Within the #Special Hudson Yards District#, a designated area for bicycle parking shall be provided for #developments# or #enlargements# with a minimum #commercial floor area ratio# of 5.0. Such designated area shall be provided at a ratio of one square foot per 1,000 square feet of #floor area#, but in no event shall more than 400 square feet be required. Such facility shall be enclosed, accessible and secure. Up to 25 percent of the designated bicycle parking area may be used for facilities #accessory# to the bicycle parking area.

\* \* \*

Article X - Special Purpose Districts
Chapter 1
Special Downtown Brooklyn District

\* \* \*

101-44
Indoor Bicycle Parking

C6-1 C6-4 C6-5

In the districts indicated, a designated area for bicycle parking shall be provided for commercial #developments# or #enlargements# with a minimum #floor area ratio# of 5.0. Such designated area shall be provided at a ratio of one square foot per 1,000 square feet of #floor area#, but in no event shall more than 400 square feet be required. Such facility shall be enclosed, accessible and secure. Up to 25 percent of the designated bicycle parking area may be used for #accessory# facilities.

\* \* \*

Article XII - Special Purpose Districts
Chapter 8
Special St. George District

\* \* \*

128-054
Applicability of Article III, Chapter 6

The provisions of Section 36-76 (Waiver or Reduction of Spaces for Subsidized Housing) shall not apply in the #Special St. George District#.

\* \* \*

128-57
Accessory Indoor Bicycle Parking

A designated area for #accessory# bicycle parking shall be provided for #developments# or #enlargements# with #residential# or #commercial uses#. Such facility shall be enclosed, accessible and secure. The #floor area# of a #building# shall not include #accessory# bicycle parking located below 33 feet., or #accessory# facilities, such as lockers, showers and circulation space.

- (a) For #residential developments# or #enlargements# with ten or more units per #building# or #building segment#, one bicycle parking space shall be provided for every two #dwelling units#, up to a maximum of 200 bicycle parking spaces.
(b) For commercial office #developments# or #enlargements# with 10,000 square feet or more of office #floor area#, one bicycle parking space shall be provided for every 5,000 square feet of office space, up to a maximum of 200 bicycle parking spaces.
(c) For commercial #developments# or enlargements# with 10,000 square feet or more of retail or service #floor area#, one bicycle parking space shall be provided for every per 10,000 square feet of retail space, up to a maximum of 100 bicycle parking spaces.

\* \* \*

Article XI - Special Purpose Districts
Chapter 7
Special Long Island City Mixed Use District

\* \* \*

117-541
Indoor bicycle parking

A designated area for bicycle parking shall be provided in Areas A-1 and A-2 for commercial #developments# or #enlargements# with a minimum #floor area ratio# of 5.0, except where more than 50 percent of the #floor area# of such #development# or #enlargement# is occupied by a #use# listed in Use Groups 16 or 17. Such designated area shall be provided at a ratio of one square foot per 1,000 square feet of #floor area#. Such facility must be enclosed, accessible and secure. Up to 25 percent of the designated bicycle parking area may be used for #accessory# facilities.

\* \* \*

Article XII - Special Purpose Districts
Chapter 4
Special Willets Point District

\* \* \*

124-042
Applicability of Article III, Chapter 6

The provisions of Section 36-76 (Waiver or Reduction of Spaces for Subsidized Housing) shall not apply in the #Special Willets Point District#.

124-043
Applicability of Article VII, Chapter 3

\* \* \*

124-043044
Applicability of Article VII, Chapter 4

\* \* \*

124-54
Indoor Bicycle Parking

~~Within the #Special Willets Point District#, a designated area for #accessory# bicycle parking shall be provided for all #developments# or #enlargements#. Such designated area shall be enclosed, accessible and secure, and excluded from the definition of #floor area#. #Accessory# facilities, such as lockers, showers and circulation space shall also be excluded from the definition of #floor area#.~~

- ~~(a) For #residential buildings# with ten or more #dwelling units#, one bicycle parking space shall be provided for every two #dwelling units#, up to a maximum of 200 bicycle parking spaces.~~
- ~~(b) For #developments# or #enlargements# with at least 10,000 square feet of Use Group 6B office #use#, one bicycle parking space shall be provided for every 5,000 square feet of such office #use#, up to a maximum of 200 bicycle parking spaces.~~
- ~~(c) For #developments# or #enlargements# with at least 10,000 square feet of Use Group 6A or 6C retail #use#, one bicycle parking space shall be provided for every 10,000 square feet of such #use#, up to a maximum of 100 bicycle parking spaces.~~

\* \* \*

**Article XII - Special Purpose Districts  
Chapter 5  
Special Southern Hunters Point District**

\* \* \*

**125-042  
Applicability of Article II, Chapter 5**

The provisions of Section 25-86 (Waiver or Reduction of Spaces for Subsidized Housing) shall not apply in the #Special Hunters Point District#.

**125-042043  
Modification of Article VI, Chapter 2**

\* \* \*

**125-56  
Accessory Indoor Bicycle Parking**

~~Within the #Special Southern Hunters Point District#, a designated area for #accessory# bicycle parking shall be provided for all #developments# or #enlargements#. Such designated area shall be enclosed, accessible and secure, and excluded from the definition of #floor area#. #Accessory# facilities, such as lockers, showers and circulation space shall also be excluded from the definition of #floor area#.~~

- ~~(a) For #residential buildings# with ten or more #dwelling units#, one bicycle parking space shall be provided for every two #dwelling units#, up to a maximum of 200 bicycle parking spaces.~~
- ~~(b) For #developments# or #enlargements# with at least 10,000 square feet of Use Group 6B office #use#, one bicycle parking space shall be provided for every 5,000 square feet of such office #use#, up to a maximum of 200 bicycle parking spaces.~~
- ~~(c) For #developments# or #enlargements# with at least 10,000 square feet of Use Group 6A or 6C retail #use#, one bicycle parking space shall be provided for every 5,000 square feet of such #use#, up to a maximum of 100 bicycle parking spaces.~~

\* \* \*

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1040

**Report of the Committee on Land Use in favor of approving Application no. 20095066 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for EAE Corp., d/b/a. Sidewalk Bar & Restaurant, to continue to maintain and operate an unenclosed sidewalk café located at 94 Avenue A, Borough of Manhattan, Council District no. 2.**

The Committee on Land Use, to which was referred on March 24, 2009 (Minutes, page 939) the annexed Land Use resolution, respectfully

**REPORTS:**

SUBJECT

MANHATTAN CB - 3

20095066 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of EAE Corp., d/b/a Sidewalk Bar & Restaurant, to continue to maintain and operate an unenclosed sidewalk café at 94 Avenue A, Borough of Manhattan.

INTENT

To allow an eating or drinking place located on a property which abuts the street to continue to maintain and operate an unenclosed service area on the sidewalk of such street.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

**DATE:** April 22, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Petition.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 1943

**Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 94 Avenue A, Borough of Manhattan (20095066 TCM; L.U. No. 1040).**

By Council Members Katz and Avella.

**WHEREAS**, the Department of Consumer Affairs filed with the Council on March 13, 2009 its approval dated March 13, 2009 of the petition of EAE Corp., d/b/a Sidewalk Bar & Restaurant, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 94 Avenue A, Community District 3, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

**WHEREAS**, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

**WHEREAS**, upon due notice, the Council held a public hearing on the Petition on April 20, 2009 and April 22, 2009; and

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Petition;

**RESOLVED:**

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1042

**Report of the Committee on Land Use in favor of approving Application no. 20095084 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for La Goulue Restaurant, Inc., to continue to maintain and operate an unenclosed sidewalk café located at 746 Madison Avenue, Borough of Manhattan, Council District no. 4.**

The Committee on Land Use, to which was referred on March 24, 2009 (Minutes, page 940) the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CB - 8**

**20095084 TCM**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of La Goulue Restaurant, Inc., to continue to maintain and operate an unenclosed sidewalk café at 746 Madison Avenue, Borough of Manhattan.

**INTENT**

To allow an eating or drinking place located on a property which abuts the street to continue to maintain and operate an unenclosed service area on the sidewalk of such street.

*Report Summary:*

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Petition.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 1944

**Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 746 Madison Avenue, Borough of Manhattan (20095084 TCM; L.U. No. 1042).**

By Council Members Katz and Avella.

**WHEREAS**, the Department of Consumer Affairs filed with the Council on March 13, 2009 its approval dated March 13, 2009 of the petition of La Goulue Restaurant, Inc., for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 746 Madison Avenue, Community District 8, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

**WHEREAS**, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

**WHEREAS**, upon due notice, the Council held a public hearing on the Petition on April 20, 2009; and

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Petition;

**RESOLVED:**

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1051

**Report of the Committee on Land Use in favor of approving Application no. C 090132 ZMM, submitted by 150 Amsterdam Avenue, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8c, establishing within an existing R8 District a C2-5 District.**

The Committee on Land Use, to which was referred on April 2, 2009 (Minutes, page 1181) the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CB - 7**

**C 090132 ZMM**

City Planning Commission decision approving an application submitted by 150 Amsterdam Avenue Holdings, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8c, by establishing within an existing R8 District a C2-5 District bounded by a line 230 feet northerly of West 66th Street, Amsterdam Avenue, West 66th Street, and a line 100 feet westerly of Amsterdam Avenue, Borough of Manhattan, Community District 7, as shown on a diagram (for illustrative purposes only) dated November 17, 2008.

**INTENT**

To amend the Zoning Map to establish a C2-5 overlay within an existing R8 district to facilitate retail uses.

*Report Summary:*

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 1945

**Resolution approving the decision of the City Planning Commission on ULURP No. C 090132 ZMM, a Zoning Map amendment (L.U. No. 1051).**

By Council Members Katz and Avella.

**WHEREAS**, the City Planning Commission filed with the Council on March 23, 2009 its decision dated March 18, 2009 (the "Decision"), on an application submitted by 150 Amsterdam Avenue Holdings, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map (ULURP No. C 090132 ZMM) (the "Application");

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on April 20, 2009;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues and the Negative Declaration, issued on November 17, 2009 (CEQR No. 08DCP063M);

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 8c, by establishing within an existing R8 District a C2-5 District bounded by a line 230 feet northerly of West 66th Street, Amsterdam Avenue, West 66th Street, and a line 100 feet westerly of Amsterdam Avenue, as shown on a diagram (for illustrative purposes only) dated November 17, 2008, Community District 7, Borough of Manhattan.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1052

**Report of the Committee on Land Use in favor of approving Application no. C 070396 ZMK, submitted by ESP Group LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17b, changing from an M1-1 District to an R7A District and establishing within the proposed R7A District a C2-4 District.**

The Committee on Land Use, to which was referred on April 2, 2009 (Minutes, page 1181) the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

**BROOKLYN CB - 17**

**C 070396 ZMK**

City Planning Commission decision approving an application submitted by ESP Group, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17b:

1. changing from an M1-1 District to an R7A District property bounded by Clarkson Avenue, a line 100 feet westerly of New York Avenue, a line midway between Clarkson Avenue and Lenox Avenue, and a line 100 feet easterly of Nostrand Avenue; and

2. establishing within the proposed R7A District a C2-4 District bounded by Clarkson Avenue, a line 100 feet westerly of New York Avenue, a line midway between Clarkson Avenue and Lenox Avenue, and a line 100 feet easterly of Nostrand Avenue;

as shown on a diagram (for illustrative purposes only) dated November 17, 2008 and subject to the conditions of CEQR Declaration E-224.

**INTENT**

To facilitate the construction of a mixed-use building in the East Flatbush section of Brooklyn.

**Report Summary:**

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 1946

**Resolution approving the decision of the City Planning Commission on ULURP No. C 070396 ZMK, a Zoning Map amendment (L.U. No. 1052).**

By Council Members Katz and Avella.

**WHEREAS**, the City Planning Commission filed with the Council on March 23, 2009 its decision dated March 18, 2009 (the "Decision"), on an application submitted by ESP Group, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map (ULURP No. C 070396 ZMK) (the "Application");

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on April 20, 2009;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues and the Conditional Negative Declaration, issued on March 16, 2009 (CEQR No. 07DCP056K);

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment subject to the following condition:

The applicant agrees via restrictive declarations to prepare hazardous materials sampling protocols, including a health and safety plans, which would be submitted to the Department of Environmental Protection (DEP) for approval. The applicant agrees to test and identify any potential hazardous material impact pursuant to the approved sampling protocols and, if any such impact is found, submit hazardous material remediation plans including health and safety plans to DEP for approval. If necessary, remediation measures would be undertaken pursuant to the remediation plans.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 17b:

1. changing from an M1-1 District to an R7A District property bounded by Clarkson Avenue, a line 100 feet westerly of New York Avenue, a line midway between Clarkson Avenue and Lenox Avenue, and a line 100 feet easterly of Nostrand Avenue; and
2. establishing within the proposed R7A District a C2-4 District bounded by Clarkson Avenue, a line 100 feet westerly of New York Avenue, a line midway between Clarkson Avenue and Lenox Avenue, and a line 100 feet easterly of Nostrand Avenue;

as shown on a diagram (for illustrative purposes only) dated November 17, 2008 and which includes CEQR Designation E-224, Community District 17, Borough of Brooklyn.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1055

**Report of the Committee on Land Use in favor of approving Uniform land use review procedure application no. C 090227 HAK, an Urban Development Action Area Designation and Project, located at 115, 117, 119, 123, 125, 129 Fountain Avenue; 922 – 932 Liberty Avenue; 66 – 72 Crystal Street, and the disposition of the city-owned property, Borough of Brooklyn, Council District no. 37.**

The Committee on Land Use, to which was referred on April 22, 2009 the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

**BROOKLYN CB - 5**

**C 090227 HAK**

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD):

- 1) pursuant to Article 16 of the General Municipal Law of New York State for:
  - a) the designation of property located at 115, 117, 119, 123, 125, 127, and 129 Fountain Avenue (Block 4191, Lots 14-20); 922, 924, 926, 928, 930, and 932 Liberty Avenue (Block 4191, Lot 22, and Lots 26, 27, 29, and 30); and 66, 68, 70, and 72 Crystal Street (Block 4191, Lots 32-35), as an Urban Development Action Area (the "Area");
  - b) an Urban Development Action Area Project for such area (the "Project"); and

26-30); and 66, 68, 70, and 72 Crystal Street (Block 4191, Lots 32-35), as an Urban Development Action Area; and

- b) an Urban Development Action Area Project for such area; and
- 2) pursuant to Section 197-c of the New York City Charter for the disposition of property located at 115, 117, 119, 123, 125, 127, and 129 Fountain Avenue (Block 4191, Lots 14-20); 924, 926, 930, and 932 Liberty Avenue (Block 4191, Lot 22, and Lots 26, 27, 29, and 30); and 66, 68, 70, and 72 Crystal Street (Block 4191, Lots 32-35), to a developer selected by HPD.

**INTENT**

To facilitate development of a three-story building, tentatively known as Liberty/Fountain Apartments, with approximately residential 43 units.

**Report Summary:**

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby make the findings required by Article 16 of the General Municipal Law and approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 1947

**Resolution approving the decision of the City Planning Commission on an application submitted by the Department of Housing Preservation and Development, ULURP No. C 090227 HAK, approving the designation of property located at 115, 117, 119, 123, 125, 127, and 129 Fountain Avenue (Block 4191, Lots 14-20); 922, 924, 926, 928, 930, and 932 Liberty Avenue (Block 4191, Lot 22, and Lots 26-30); and 66, 68, 70, and 72 Crystal Street (Block 4191, Lots 32-35), Borough of Brooklyn, as an Urban Development Action Area, approving the project for the area as an Urban Development Action Area Project, and approving the disposition of property located at 115, 117, 119, 123, 125, 127, and 129 Fountain Avenue (Block 4191, Lots 14-20); 924, 926, 930, and 932 Liberty Avenue (Block 4191, Lot 22, and Lots 26, 27, 29, and 30); and 66, 68, 70, and 72 Crystal Street (Block 4191, Lots 32-35) to a developer selected by the Department of Housing Preservation and Development (Preconsidered L.U. No. 1055; C 090227 HAK).**

By Council Members Katz and Garodnick.

**WHEREAS**, the City Planning Commission filed with the Council on April 3, 2009 its decision dated April 1, 2009 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 197-c of the New York City Charter and Article 16 of the General Municipal Law of New York State regarding:

- a) the designation of property located at 115, 117, 119, 123, 125, 127, and 129 Fountain Avenue (Block 4191, Lots 14-20); 922, 924, 926, 928, 930, and 932 Liberty Avenue (Block 4191, Lot 22, and Lots 26-30); and 66, 68, 70, and 72 Crystal Street (Block 4191, Lots 32-35), as an Urban Development Action Area (the "Area");
- b) an Urban Development Action Area Project for such area (the "Project"); and

pursuant to Section 197-c of the New York City Charter for the disposition of property located at 115, 117, 119, 123, 125, 127, and 129 Fountain Avenue (Block 4191, Lots 14-20); 924, 926, 930, and 932 Liberty Avenue (Block 4191, Lot 22, and Lots 26, 27, 29, and 30); and 66, 68, 70, and 72 Crystal Street (Block 4191, Lots 32-35) to a developer selected by the Department of Housing Preservation and Development to facilitate development of a three-story building, tentatively known as Liberty/Fountain Apartments, with approximately 43 residential units (the

"Disposition"), Community District 5, Borough of Brooklyn (ULURP No. C 090227 HAK) (the "Application");

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

**WHEREAS**, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

**WHEREAS**, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its recommendations regarding the Application on March 26, 2009;

**WHEREAS**, upon due notice, the Council held a public hearing on the Application and Decision on April 20, 2009;

**WHEREAS**, the Council has considered the land use and financial implications and other policy issues relating to the Application;

**WHEREAS**, the Council has considered the relevant environmental review (CEQR No. 09HPD023K) and the Negative Declaration which was issued on November 24, 2008;

**RESOLVED:**

The Council finds that the action described herein shall have no significant effect on the environment.

Pursuant to Section 197-d, the Council approves the decision of the City Planning Commission (C 090227 HAK).

The Council finds that the present status of the Project Area tends to impair or arrest the sound growth and development of the City of New York and that a designation of the Project as an urban development action area project is consistent with the policy and purposes stated in Section 691 of the General Municipal Law.

The Council approves the designation of the Project Area as an urban development action area pursuant to Section 693 of the General Municipal Law.

The Council approves the Project as an urban development action area project pursuant to Section 694 of the General Municipal Law.

The Council approves the disposition of property located at 115, 117, 119, 123, 125, 127, and 129 Fountain Avenue (Block 4191, Lots 14-20); 924, 926, 930, and 932 Liberty Avenue (Block 4191, Lot 22, and Lots 26, 27, 29, and 30); and 66, 68, 70, and 72 Crystal Street (Block 4191, Lots 32-35) to a developer selected by the Department of Housing Preservation and Development.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1056

**Report of the Committee on Land Use in favor of approving Application no. N 090239 ZRY submitted by Department of City Planning pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to modifications of Article VI, chapter 2 (special Regulations Applying in the Waterfront Area), and various related Sections of the Zoning Resolution.**

The Committee on Land Use, to which was referred on April 22, 2009 the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

**CITYWIDE  
ZRY**

**N 090239**

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to modifications of Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area), and various related Sections of the Zoning Resolution.

**INTENT**

To modify the waterfront zoning regulations.

**Report Summary:**

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 1948

**Resolution approving the decision of the City Planning Commission on Application No. N 090239 ZRY, for amendments of the Zoning Resolution of the City of New York relating to modifications of Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area), and various related Sections of the Zoning Resolution, Citywide (Preconsidered L.U. No. 1056).**

By Council Members Katz and Avella.

**WHEREAS**, the City Planning Commission filed with the Council on April 3, 2009 its decision dated April 1, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, relating to modifications of Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area), and various related Sections of the Zoning Resolution, (Application No. N 090239 ZRY), Citywide (the "Application");

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on April 20, 2009;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues and the Negative Declaration which was issued on December 15, 2008 (CEQR No. 09DCP035Y);

**RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision.



The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

- Matter in underline is new, to be added;
- Matter in ~~strikeout~~ is to be deleted;
- Matter with # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

**Article I  
General Provisions**

**Chapter 2  
Construction of Language and Definitions**

\* \* \*

**12-10  
DEFINITIONS**

\* \* \*

**Waterfront area**

The "waterfront area" is the geographical area comprising all #blocks# between the pierhead line and a line 800 feet landward from the #shoreline#. Where such line intersects a #block#, the entire #block# shall be included and the #waterfront area# boundary shall coincide with the centerline of the landward boundary #street# or other #block# boundary. Notwithstanding the above, any #zoning lot#, the boundaries of which were established prior to November 1, 1993, and which is not closer than 1,200 feet from the #shoreline# at any point and which does not abut a waterfront public park shall not be included in the #waterfront area#.

For the purposes of this definition, only #blocks# along waterways that have a minimum width of 100 feet between opposite #shorelines#, with no portion downstream less than 100 feet in width, shall be included within the #waterfront area#. However, #blocks# bounding the Gowanus Canal north of Hamilton Avenue, as shown on the City Map, Dutch Kills, and the portion of the Bronx River located south of the prolongation of East 172th Street, shall be included within the #waterfront area#.

\* \* \*

**22-22  
By the City Planning Commission**

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4, or as otherwise indicated in this Section.

R3 R4 R5 R6 R7 R8 R9 R10

Docks for ferries or water taxis as listed in Use Group 6, pursuant to Section ~~62-732~~ 62-832

\* \* \*

**25-31  
General Provisions**

\* \* \*

Docks for ferries  
Parking requirement, as provided in Section ~~62-53~~ 62-43

R3 R4 R5 R6 R7 R8 R9 R10

\* \* \*

**32-32  
By the City Planning Commission**

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4, or as otherwise indicated in this Section.

\* \* \*

C2 C3 C4 C5 C6 C7 C8

Docks for #gambling vessels#, pursuant to Section ~~62-737~~ 62-837

\* \* \*

**36-21  
General Provisions**

C1 C2 C3 C4 C5 C6 C7 C8

\* \* \*

Docks for non-commercial pleasure boats; rental boats; ferries; sightseeing, excursion or sport fishing vessels; passenger ocean vessels; or vessels not otherwise listed (~~for parking requirement~~—see Section ~~62-53~~ 62-43 for parking requirement)

\* \* \*

**42-32  
By the City Planning Commission**

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4.

\* \* \*

M1 M2 M3

Docks for #gambling vessels#, pursuant to Section ~~62-737~~ 62-837

\* \* \*

**44-21  
General Provisions**

\* \* \*

Docks for non-commercial pleasure boats; rental boats; ferries; sightseeing, excursion or sport fishing vessels; passenger ocean vessels; or vessels not otherwise listed (~~for parking requirement~~—see Section ~~62-53~~ 62-43 for parking requirement)

\* \* \*

**Article VI  
Special Regulations Applicable to Certain Areas**

**Chapter 2  
Special Regulations Applying in the Waterfront Area**

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Appendix A – Waterfront Plant List

\* \* \*

62-10 GENERAL PROVISIONS

62-11 Definitions

Definitions specially applicable to this Chapter are set forth in this Section. The definitions of other defined terms are set forth in Section 12-10 (DEFINITIONS).

\* \* \*

Pier

A "pier" is a structure at the water's edge, not otherwise defined as a #platform#, that is:

- (a) a pile-supported overwater structure, or a portion thereof, that projects from a #shoreline#, bulkhead or #platform#; or
- (b) a solid-core structure, or a portion thereof, constructed for the docking of water-borne vessels, that projects from the land or from a #platform#.

Projections from #platforms# shall be considered #piers# if their length, measured from the portion of the #platform# from which they project, exceeds 50 percent of their width at such portion. Any further extensions from such projections shall be considered #piers# regardless of their configuration (see illustration).

(Illustration)

Pier, existing

An "existing pier" is a #pier# where at least 75 percent of its surface is visible in the April 1988 Lockwood, Kessler and Bartlett aerial photographs of New York City.

Pier, new

A "new pier" is any #pier# other than an #existing pier#.

Platform

A "platform" is a pile-supported or solid-core structure at the water's edge, or a portion thereof, that:

- (a) is permanently connected to the land; and
- (b) has a seaward dimension that does not exceed 50 percent of its dimension along the land to which it is connected (see illustration).

(Illustrations)

Platform, existing

An "existing platform" is a #platform# where at least 75 percent of its surface is visible in the April 1988 Lockwood, Kessler and Bartlett aerial photographs of New York City.

Platform, new

A "new platform" is any #platform# other than an #existing platform#.

\* \* \*

Supplemental public access area

A "supplemental public access area" is a ~~waterview plaza, waterview park, waterview sitting area or residual public access~~ area provided on a #waterfront zoning lot#, in addition to other required public access areas, in order to fulfill the required #waterfront public access area# requirements. A #supplemental public access area# shall not include a #shore public walkway# or an #upland connection#.

Upland connection

An "upland connection" is a pedestrian way which provides a public access route from a #shore public walkway# ~~or a #supplemental public access area#~~ to a public sidewalk within an open and accessible public #street#, #public park# or other accessible public place.

\* \* \*

Water coverage

"Water coverage" is the portion of a #zoning lot# seaward of the #shoreline# that, when viewed directly from above, would be covered by a #pier#, #platform# or #floating structure#, including portions of #buildings or other structures# projecting over the water from such structures. #Water coverage# shall not include docking or navigational appurtenances which may project from the aforementioned structures.

~~For the purpose of applying #water coverage# to any provision of this Resolution relating to #lot area#, a #pier# or #platform# shall be structurally sound and physically accessible directly from the shore, with a surface capable of lawful occupancy. However, in no event shall the #water coverage# of a #building or other structure# projecting over the water from a #pier# or #platform# be included in #lot area#.~~

Waterfront block, ~~waterfront public park~~ or waterfront zoning lot

A "waterfront block;" ~~"waterfront public park"~~ or "waterfront zoning lot" is a #block#, ~~#public park#~~ or #zoning lot# in the #waterfront area# having a boundary at grade coincident with or seaward of the #shoreline#. For the purposes of this Chapter:

- (a) a #block# within the #waterfront area# shall include the land within a #street# that is not improved or open to the public, and such #street# shall not form the boundary of a #block#;
- (b) a #block# within the #waterfront area# that abuts a ~~#waterfront~~ public park# along the waterfront shall be deemed to be part of a #waterfront block#; and
- (c) a #zoning lot# shall include the land within any #street# that is not improved or open to the public and which is in the same ownership as that of any contiguous land.

However, any #block# or #zoning lot# in the #waterfront area# having a boundary within or coincident with the boundaries of the Gowanus Canal, as shown on the City Map, shall be a #waterfront block# or #waterfront zoning lot#, respectively.

Any #zoning lot#, the boundaries of which were established prior to November 1, 1993, and which is not closer than 1,200 feet from the #shoreline# at any point and which does not abut a ~~#waterfront~~ public park# along the waterfront, shall be deemed outside of the #waterfront block#.

Waterfront public access area

A "waterfront public access area" is the portion of a #zoning lot# improved for public access. It may include any of the following: a #shore public walkway#, #upland connection#, #supplemental public access area# or public access area on a #pier# or #floating structure#.

\* \* \*

**62-12**

**Applicability to Developments in the Waterfront Area**

Within the #waterfront area#, all #developments# on #zoning lots# within #waterfront blocks# shall be subject to all provisions of this Chapter, unless stated otherwise. #Developments# on other #zoning lots# within the #waterfront area# shall be subject to the regulations of this Chapter only when part of a large-scale #development#, any portion of which is within a #waterfront block#, or when on #zoning lots# located in an area designated as part of a Waterfront Access Plan in accordance with Section ~~62-80~~ 62-90 (WATERFRONT ACCESS PLANS. The provisions of this Chapter shall not be deemed to supersede or modify the regulations of any State or Federal agency having jurisdiction on affected properties.

- (a) Any #development# approved by special permit or authorization of the City Planning Commission or any #zoning lot# subject to a restrictive declaration in conjunction with a land use action by the Commission and the City Council, or former Board of Estimate, as applicable, prior to October 25, 1993, may be started or continued pursuant to such special permit authorization or the terms of such restrictive declaration.

Notwithstanding the provisions of this Chapter, except as set forth in paragraphs (a)(1) through ~~(a)(6)~~ of this Section, the Commission may authorize modifications of such special permit or authorization, or the terms of a restrictive declaration may be modified by the Commission and, if applicable, the City Council, provided such modifications do not:

- (a1) increase the height or #lot coverage# of any #building# in a #waterfront block# beyond the maximum set forth in Section 62-30 (SPECIAL BULK REGULATIONS);
- (b2) extend the location of the exterior walls of any #building# within a #waterfront block# above the maximum base height for the district, as set forth in Section 62-34 (Height and Setback Regulations on Waterfront Blocks);
- (e3) increase the total #floor area# on any #zoning lot# within a #waterfront block# beyond the amount approved prior to October 25, 1993;
- (d4) result in the obstruction of a required #visual corridor# or increase any existing obstruction of such #visual corridor#;
- (e5) increase the size of a #pier# or #platform# or the size of any #building or other structure# on a #pier# or #platform# approved prior to October 25, 1993; or
- (f6) involve a change that would create a requirement for public access or #visual corridors# without providing such public access or #visual corridors# in accordance with the provisions of Section ~~62-40~~ 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS AND VISUAL CORRIDORS).

- (b) #Developments# for which an application for certification pursuant to this Chapter was filed prior to (effective date of amendment) may be continued pursuant to the regulations of this Chapter in effect at the time of such filing.

- (c) Design changes to a previously certified application, including applications certified pursuant to paragraph (b) of this Section, may be made only upon further certification by the Chairperson of the Commission that such changes would not increase the degree of non-compliance or would result in a greater level of compliance with this Chapter.

- (d) #Developments# for which an application for authorization or special permit pursuant to this Chapter was filed prior to (effective date of amendment) may be continued pursuant to the regulations of this Chapter in effect at the time of such filing.

(e) #Developments# for which an application for an authorization or special permit, other than an authorization or special permit pursuant to this Chapter, was filed prior to (effective date of amendment), may be continued pursuant to the terms of such authorization or special permit and, to the extent not modified under the terms of such authorization or special permit, shall be subject to the regulations of this Resolution that were in effect at the time such authorization or special permit was granted.

~~In addition to the provisions of Section 11-30 (BUILDING PERMITS ISSUED BEFORE EFFECTIVE DATE OF AMENDMENT), construction involving the alteration of existing #buildings# authorized pursuant to a building permit issued by the Departments of Buildings or Business Services for any #development# for which an application, with complete plans and specifications for the entire construction and not merely a part thereof, was filed and pending with the Departments of Buildings or Business Services as of May 12, 1993, may be continued after October 25, 1993, provided that an application pursuant to Section 62-70 (SPECIAL REVIEW PROVISIONS) is filed with the Department of City Planning within 30 days from October 25, 1993. Construction thereafter may continue for a period of one year after October 25, 1993, during which period either the Chairperson of the City Planning Commission certifies pursuant to Section 62-711 (Waterfront public access and visual corridors) that there is compliance with the public access and #visual corridor# requirements of this Chapter or the City Planning Commission acts pursuant to Section 62-72 (Authorizations by the City Planning Commission) or 62-73 (Special Permits by the City Planning Commission) to approve a modification. If the Commission does not approve a modification, then the #development# shall comply with the requirements of Sections 62-40 (REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AND VISUAL CORRIDORS) and 62-60 (DESIGN STANDARDS FOR THE WATERFRONT AREA).~~

\* \* \*

**62-131**

**Applicability of ~~Chapter 3~~ of Article VII, Chapter 3**

\* \* \*

Section 73-49 (Roof Parking) shall be applicable, except for those provisions expressly modified by Section ~~62-50~~ 62-40 (SPECIAL PARKING AND LOADING REGULATIONS).

\* \* \*

**62-132**

**Applicability of ~~Chapters 4, 8 & 9~~ of Article VII, Chapters 4, 8 and 9**

\* \* \*

The following special permits by the City Planning Commission shall be applicable on #waterfront blocks# only as modified in the following Sections:

\* \* \*

Section 74-52 (Parking Garages or Public Parking Lots in High Density Central Areas) shall be applicable subject to the provisions of Section 62-26 (Special Use Regulations for Public Parking Facilities) and the special permit provisions of Section ~~62-735~~ 62-835 (Public parking facilities on waterfront blocks).

Section 74-53 (Accessory Group Parking Facilities for Uses in Large-Scale Residential Developments or Large-Scale Community Facility Developments or General Large-Scale Developments) shall be applicable, except that finding (d), relating to roof parking, shall not apply. In lieu thereof, the provisions of Sections ~~62-514~~ 62-411 (Accessory residential roof parking) and 62-521 (Accessory non-residential roof parking) shall apply.

\* \* \*

Section 74-79 (Transfer of Development Rights from Landmark Sites) shall be applicable, except that permissible modifications shall also include all #bulk# regulations set forth in Section 62-30 (SPECIAL BULK REGULATIONS), except for paragraph (a) of Section 62-31 and maximum #floor area ratio# for the applicable district set forth in Section 62-32. Modifications may also include public

access and #visual corridor# requirements set forth in Sections ~~62-40~~ 62-50 and 62-60.

\* \* \*

Section 74-922 (Certain large retail establishments) shall be applicable except that, on #existing #-piers#, the provisions of Section 62-241 (Uses on existing piers and platforms) shall also be applicable.

\* \* \*

The large-scale #development# provisions of Section 74-74 and Article VII, Chapters 8 and 9, shall be applicable, except that:

\* \* \*

(c) Any height and setback modifications within a #waterfront block# shall be subject to an additional finding that such modifications would result in a site plan with ~~physical and~~ visual and, where required, physical public access to the waterfront in a way that is superior to that which would be possible by strict adherence to the regulations of Section 62-341 (Developments on land and platforms).

\* \* \*

(e) Modification of public access and #visual corridor# requirements shall be subject to the authorization provisions of Section ~~62-722~~ 62-822. In lieu of making the findings in paragraphs (a) or (b) of this Section, the Commission may find that the proposed site plan would result in better achievement of the goals set forth in Section 62-00 than would otherwise be possible by strict adherence to the regulations of Sections ~~62-40~~ 62-50 and 62-60.

**62-133**

**Applicability of the Quality Housing Program**

\* \* \*

However, all other requirements of the Quality Housing Program set forth in Article II, Chapter 8 shall apply except that #developments# that provide a #shore public walkway#, in accordance with the requirements of Section 62-60 (DESIGN STANDARDS REQUIREMENTS FOR THE WATERFRONT PUBLIC ACCESS AREAS), shall be deemed to have met the requirements for recreation space specified in Section 28-30 (RECREATION SPACE AND PLANTING AREAS). Also, for the purposes of Section 28-33 (Planting Areas), the boundary of an #upland connection# located within a private drive shall be considered a #street line#.

\* \* \*

**62-14 (moved to 62-74)**

**Requirements for Recordation**

**62-15**

**62-14**

**Integration of Waterfront Access Plans**

Waterfront Access Plans shall be set forth in Section ~~62-80~~ 62-90 of this Chapter. Such plans shall supersede, supplement or modify certain provisions of this Chapter. Except as expressly stated otherwise in the plan, all provisions of this Chapter remain in effect in the area subject to such plan.

\* \* \*

**62-16 (moved to 62-80, revised)**

**Requirements for Applications**

\* \* \*

**62-20**

**SPECIAL USE REGULATIONS**

\* \* \*

62-211

~~WD uses (Water-Dependent)~~

Water-Dependent (WD) uses

\* \* \*

62-212

~~WE uses (Waterfront-enhancing)~~

Waterfront-Enhancing (WE) uses

\* \* \*

From Use Group 4:

Community centers

Houses of worship

\*Ice skating rinks, outdoor

\*Non-commercial clubs, with restrictions

~~\*\*Public parks# or p#Playgrounds or private parks~~

Recreation centers, non-commercial

\*Philanthropic or non-profit institutions without sleeping accommodations, excluding ambulatory diagnostic or treatment health care facilities listed in Use Group 4

Golf courses

\*Tennis courts, outdoor

\* \* \*

62-22

**Commercial Docking Facilities**

Commercial docking facilities are listed in Use Groups 6, 9, 10, 14 and 17 in Sections 32-10 and 42-10. Such #uses# are permitted as-of-right in all districts set forth in the Use Groups and are subject to the #accessory# off-street parking and passenger loading requirements of Sections ~~62-53~~ 62-43 and ~~62-562~~ 62-462 of this Chapter.

62-231

**Rental of accessory berths to non-residents**

\* \* \*

- (b) except in Manhattan Community Boards 1 through 8, an additional off-street parking space, in a location adjacent to the docking facility, or off-site in accordance with the provisions of Section ~~62-512~~ 62-412 (Accessory residential off-site parking), is provided for each berth or mooring so occupied;

\* \* \*

62-24

**Uses on Piers and Platforms**

~~#Piers# and #platforms# shall be classified as either existing or new for the purposes of the #waterfront area# regulations. A #pier# or #platform# shall be classified as existing only if at least 75 percent of the surface of such pile supported or solid core structure is visible in the aerial photographs of New York City flown by Lockwood, Kessler and Bartlett in April 1988.~~

#Uses# on #existing #piers# or #existing #platforms# shall be subject to the provisions of Section 62-241. #Uses# on #new #piers# or #new #platforms# shall be subject to the provisions of Section 62-242.

62-241

**Uses on existing piers and platforms**

The #use# of an #existing #platform# may be continued or such #use# may be changed, #enlarged# or #extended# in accordance with the #use# regulations of the applicable district.

The #use# of an #existing #pier# may be continued or such #use# may be changed, #enlarged# or #extended# in accordance with the #use# regulations of the applicable district provided that any #use# within a #building or other structure# on the #pier# meets one of the following requirements:

\* \* \*

Any #use# on an #existing #pier# not permitted by the foregoing provisions of this Section shall only be allowed by special permit of the City Planning Commission pursuant to Section ~~62-734~~ 62-834 (Developments on piers or platforms).

62-242

**Uses on new piers and platforms**

~~#New #piers# and #new #platforms# shall be limited to WD #uses# or to the following WE #uses#: #public parks# or playgrounds or publicly accessible private parks. Conversions from these #uses# to any other WE #use# are permitted only by special permit, pursuant to Section ~~62-734~~ 62-834 (Developments on piers or platforms).~~

62-25

**Uses on Floating Structures**

\* \* \*

- (b) Other #uses# shall be permitted on #floating structures# only by special permit pursuant to Section ~~62-733~~ 62-833.

\* \* \*

62-26

**Special Use Regulations for Public Parking Facilities**

\* \* \*

In C8 Districts and #Manufacturing Districts#, public parking facilities shall be permitted in accordance with the applicable district regulations. In other districts, public parking facilities shall be permitted within #waterfront blocks# only by special permit pursuant to Section ~~62-735~~ 62-835. The requirement for such special permit shall be in addition to any special permit or authorization requirements of the applicable district.

62-27

**Special Use Regulations for ~~Public Parks, Playgrounds or~~ Private Parks**

~~#Public parks#, p#Playgrounds and private parks shall be a permitted #use# in M2 and M3 Districts within the #waterfront area# in Community Districts 1, 2 and 4 in the Borough of Manhattan.~~

\* \* \*

62-29

**~~Special Use Regulations for Waterfront Access Plan BK-1~~  
Special Use Regulations in R6, R7, R8, R9 and R10 Districts**

~~All Use Group 6 and 9 #uses# delineated in Section 62-212 (Waterfront-enhancing uses) not otherwise permitted, shall be a permitted #uses# on any parcel identified in Waterfront Access Plan BK-1, provided that:~~

- (a) ~~such #use# is limited to not more than 10,000 square feet of #floor area# per establishment;~~
- (b) ~~the total amount of #floor area# used for such #uses# does not exceed two percent of the total amount of #floor area# permitted on such parcel; and~~

(e) ~~such #uses# are located below the level of the first #story# ceiling of a #building# or are located on a #pier# or #platform#.~~

~~Additionally, docks for water taxis and docks or mooring facilities for non-commercial pleasure boats (Use Group 6) shall be a permitted #uses# on any parcel identified in Waterfront Access Plan BK-1.~~

R6 R7 R8 R9 R10

In the districts indicated, any Use Group 6 or 9 #use#, listed in Section 62-212 (Waterfront-enhancing (WE) uses), shall be a permitted #use# anywhere on the #zoning lot#, provided such #zoning lot# is partially located within a #Commercial District#, and further provided that:

- (a) such #uses# have a public entrance fronting on a #waterfront public access area# or a #street# that provides public access to a #shore public walkway#;
- (b) such #uses# are limited to not more than 10,000 square feet of #floor area# per establishment;
- (c) the total amount of #floor area# used for such #uses# does not exceed two percent of the total amount of #floor area# permitted on such #zoning lot#; and
- (d) such #uses# are located below the level of the first #story# ceiling of a #building#, on a #pier# or #platform#, or in a kiosk within a #waterfront public access area# in accordance with the provisions for kiosks set forth in paragraph (e) of Section 62-611 (Permitted obstructions).

**62-291**

Special Provisions in Waterfront Access Plan BK-1

Docks for water taxis and docks or mooring facilities for non-commercial pleasure boats, listed in Section 32-15 (Use Group 6), shall be permitted #uses# on any parcel identified in Waterfront Access Plan BK-1.

**62-30**

**SPECIAL BULK REGULATIONS**

\* \* \*

Modification of the #bulk# regulations of Sections 62-31, 62-32, 62-33 or 62-341 shall only be allowed by authorization or special permit of the City Planning Commission pursuant to Sections ~~62-736~~ 62-836, 74-711, 74-74, 74-79, 78-00 or 79-00.

\* \* \*

**62-31**

**Bulk Computations on Waterfront Zoning Lots**

On #waterfront zoning lots#, the areas of the #upland lot# and the #seaward lot# shall be computed separately.

(a) Upland lot

All #bulk# regulations pertaining to the #upland lot# shall be satisfied entirely on such portion of the #zoning lot#. All #floor area#, #dwelling units# or #rooming units# generated by such portion shall be located within the #upland lot# and all #lot coverage# computations shall be based solely on the area of the #upland lot#.

(b) Seaward lot

Within the #seaward lot#, only the #water coverage# of #piers# or #platforms# that are structurally sound and physically accessible directly from the shore, with a surface that is capable of lawful occupancy, shall be deemed to be #lot area# for the purposes of determining allowable #floor area#, #dwelling units# or #rooming units# ~~on such structures~~, or to satisfy any other #bulk# regulations, unless expressly stated otherwise. In no event shall the #water coverage# of a #building or other structure# projecting

over the water from a #pier# or #platform# be included in #lot area#. #Lot coverage# provisions shall not apply to the #seaward lot#.

Except where all #piers#, #platforms# or #floating structures# are occupied #predominantly# by WD #uses#, the maximum #water coverage# permitted on a #zoning lot# shall not exceed 50 percent and the #water coverage# of an #existing #pier# or #platform# may not be increased by more than ten percent.

(b)(c) Special provisions for bulk distribution

#Floor area#, #dwelling units# or #rooming units# generated by #existing #piers# or #platforms# within the #seaward lot# may be located anywhere on the #zoning lot# provided the amount on the #upland lot# does not exceed the maximum for the district on such portion of the #zoning lot# by more than 20 percent. No #bulk# distribution from the #seaward lot# shall be permitted for #new #piers# or #platforms#, except within Waterfront Access Plan BK-1. Such #bulk# distribution shall be permitted for new portions of #piers# located within Waterfront Access Plan BK-1, provided that such new portion of the #pier# is accessed from a portion of an #existing #pier# containing not less than 25 percent of the #water coverage# of such #existing #pier# and that the #water coverage# of the new and existing portions of the #pier# does not exceed the #water coverage# of the #existing #pier#.

\* \* \*

**62-33**

**Special Yard Regulations on Waterfront Blocks**

#Yard# regulations for #zoning lots# within #waterfront blocks# shall be governed by the provisions of this Section. For #developments# containing WD #uses# or, in C8 or #Manufacturing Districts#, #developments# comprised predominantly of #uses# in Use Groups 16, 17 or 18, or for #developments# on #zoning lots# that are not #waterfront zoning lots#, #yards# shall be provided in accordance with the applicable district regulations. For all other #developments#, #yards# shall be provided in accordance with the provisions of Sections 62-331 (Front yards and side yards) and 62-332 (Rear yards and waterfront yards), except that no #yard# regulations shall be applicable on #piers# or #floating structures# nor may #piers# or #floating structures# be used to satisfy any #yard# requirements.

\* \* \*

**62-332**

**Rear yards and waterfront yards**

\* \* \*

No #building or other structure# shall be erected above the lowest level of a #waterfront yard#. Permitted obstructions in #waterfront yards# in all districts shall ~~be limited to those allowed for public access areas located include improvements within such #waterfront yards public access areas, # or for #rear yards# and permitted obstructions as listed in Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), except that the following #rear yard# obstructions shall not be permitted enclosed #accessory# off-street parking spaces and walls exceeding four feet in height shall not be permitted:~~

In addition, the following #rear yard# obstructions shall not be permitted except when #accessory# to #single-# or #two-family residences# in #detached#, #semi-detached# or #zero lot line buildings# the following #rear yard# obstructions shall not be permitted:

~~⊖~~Balconies, unenclosed;

~~⊖~~Greenhouses, non-commercial, #accessory#;

~~⊖~~Parking spaces, off-street, open ~~or enclosed~~, #accessory#;

~~⊖~~Swimming pools, #accessory#;

~~⊖~~Terraces or porches, open-;

~~⊖~~Walls, exceeding four feet in height.

~~\* except when #accessory# to #single-# or #two-family residences# in #detached#, #semi-detached# or #zero lot line buildings#. Only open #accessory# off-street parking spaces shall be permitted.~~

\* \* \*

62-34
Height and Setback Regulations on Waterfront Blocks

\* \* \*

62-341
Developments on land and platforms

\* \* \*

(a) For the purposes of applying the height and setback regulations of this Section, the following provisions shall apply:

\* \* \*

(2) #Initial setback distance#

For the purposes of paragraph (c) of this Section, an #initial setback distance# shall be a horizontal distance measured for a depth of 15 feet from a #narrow street line# and ten feet from a #wide street line#. However, an #initial setback distance# shall have a depth of 30 feet from the boundary of a #shore public walkway#. Wherever a #supplemental public access area# is provided as a widened #shore public walkway#, such widened area shall be included in the #initial setback distance#.

\* \* \*

(4) Permitted obstructions

\* \* \*

(ii) A penthouse portion of a #building or other structure# shall be permitted to exceed a maximum building height specified in Table A of this Section only if the gross area of any #story# within such portion located either partially or wholly above such height does not exceed 80 percent of the gross area of the #story# directly below. No such portion of a #building or other structure# shall exceed the maximum building height in Table A by more than 40 feet.

A penthouse portion of a #building# shall be permitted to exceed the applicable maximum building height, specified in Table A of this Section, by not more than 40 feet, only if the gross area of any #story# within such portion has a #lot coverage# of at least 50 percent and not more than 85 percent of the highest #story# that is located entirely below the maximum building height. Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the penthouse portion, where at least one setback on each face has a depth of at least four feet and a width that, individually or in the aggregate, is equal to at least ten percent of the width of such respective face. For the purposes of this paragraph, (a)(4)(ii), the penthouse portion shall have four faces, with each face being the side of the rectangle within which the outermost walls of the highest #story# located entirely below the maximum building height have been inscribed. The required setbacks shall be measured from the outermost walls of the #building# facing each penthouse portion face. Required setback areas may overlap.

\* \* \*

(b) Lower Density Districts

\* \* \*

(c) Medium and High Density Non-Contextual Districts

R6 R7 R8 R9 R10

C1-6 C1-7 C1-8 C1-9 C2-6 C2-7 C2-8 C4-2 C4-3 C4-4 C4-5 C4-6 C4-7 C5 C6 C7 C8-2 C8-3 C8-4

M1-2 M1-3 M1-4 M1-5 M1-6 M2 M3

Except for medium and high density contextual districts listed in paragraph (d) of this Section, in the districts indicated, and in C1 and C2 Districts mapped within such #Residence Districts#, the height and setback regulations of Sections 23-60, 24-50, 33-40, 35-24 and 43-40 shall not apply. In lieu thereof, the height and setback regulations set forth in this Section shall apply.

\* \* \*

(5) Additional setback provisions for high #buildings#

A setback is required for all #buildings# that exceed a height of 150 feet. Such setback may be provided in any manner, provided any #story# of a #building# located entirely above a height of 150 feet does not exceed 85 percent of the gross area of the highest #story# of the same #building# located entirely below a height of 150 feet. Such setback areas may be penetrated by dormers provided that the setback is at least six feet in depth and extends across the entire face of the #building#. On any building face, the aggregate length of all dormers at a height of 150 feet shall not exceed 60 percent of the length of the building face at such level. At any higher level, the length of a dormer shall be decreased by one percent for every foot that such level of dormer exceeds 150 feet.

(65) Maximum length of walls facing #shoreline#

\* \* \*

(76) Ground floor streetscape provisions

For the purposes of this Section, "ground floor level" shall mean the floor of a #building#, the level of which is located within five feet of the finished level of the adjacent sidewalk.

At least 50 percent of the frontage length of any #street wall# facing and within 50 feet of a #shore public walkway#, #upland connection#, #supplemental public access area#, #waterfront public access area# or public #street# shall be occupied by #floor area# at the ground floor level. This provision shall not apply to any such #street wall# less than 50 feet in length.

For #street walls# that are more than 50 feet in length and within 50 feet of a #waterfront public access area# or #street#, the following rules shall apply:

(i) at least 50 percent of the length of such #street walls# shall be occupied by floor area at the ground floor level, and

(ii) where such #street walls# do not contain windows with sill levels lower than four feet above the adjacent sidewalk for a continuous distance of at least 30 feet, such #street walls# shall be articulated with rustication or decorative grills, or screened with plant material, to a minimum height of four feet.

Parking garages that occupy the ground floor frontage along any #street# or private drive which is also an #upland connection# shall be screened in accordance with the planting requirements of paragraph (a)(7)(iii) of Section 62-675-62-655.

\* \* \*

62-342
Developments on piers

\* \* \*

(b) Building length and spacing regulations on #piers#

\* \* \*

Permitted obstructions above the #base plane# within such required open areas between #buildings or other structures# shall be limited to those allowed above the lowest level of a #visual corridor# pursuant to Section 62-642 62-513 (Design requirements for Permitted obstructions in visual

corridors), except that free-standing #accessory buildings or other structures# shall also be permitted provided they do not exceed a height of 30 feet and a total area, in aggregate, of 900 square feet. A minimum spacing of 15 feet shall be provided between such #accessory buildings or other structures# and any other #building or other structure# on the #pier#.

(c) Modification of #pier bulk# regulations

Modification of the regulations of this Section involving the height and setback or length and spacing of #buildings or other structures# on #piers# shall only be allowed by special permit of the City Planning Commission pursuant to Section ~~62-734~~ 62-834 (Developments on piers and platforms), Section 74-711 (Landmark preservation in all districts) or Section 74-79 (Transfer of Development Rights from Landmark Sites).

**62-343**  
**Developments on floating structures**

\* \* \*

#Developments# permitted as-of-right pursuant to Section 62-25 shall not exceed a height of 23 feet. #Developments# on #floating structures# pursuant to the special permit provisions of Section ~~62-733~~ 62-833 shall not exceed the height limits set forth in Column A of the following table except for navigational vessels being converted to #floating structures# in accordance with such special permit provisions. Converted vessels shall be subject to the height limits set forth in Column B of the following table.

\* \* \*

**62-35**  
**Special Bulk Regulations in Certain Areas Within Community District 1, Brooklyn**

\* \* \*

**62-353**  
**Special floor area, lot coverage and residential density distribution regulations**

Within any parcel identified in Section ~~62-831~~ 62-931 (Waterfront Access Plan BK1: Greenpoint-Williamsburg), and with respect to any such parcels that are adjacent to each other and that are under single-fee ownership and with respect to which each party having any interest therein is a party in interest (as defined in paragraph (e) of the definition of a #zoning lot# in Section 12-10) or with respect to which each party in interest (as defined in paragraph (f)(4) of the definition of a #zoning lot# in Section 12-10) has executed a declaration declaring that the properties are to be developed as a single parcel or has waived its right to execute such declaration, the total #lot coverage# permitted pursuant to Section 62-322, the total #floor area# permitted pursuant to Sections 62-351 or 62-352 and the residential density permitted pursuant to Section 23-22, may be located anywhere within such parcel or between such parcels without regard to #zoning lot lines# or district boundaries provided that such location of #floor area#, #lot coverage# or #residential# density complies with Sections 62-31 (Bulk Computations on Waterfront Lots) and 62-34 (Height and Setback Regulations on Waterfront Blocks), as modified by Section 62-354 (Special height and setback regulations).

**62-354**  
**Special height and setback regulations**

Within Waterfront Access Plan BK-1, the provisions of Section 62-341 (Developments on land and platforms) are modified as follows:

\* \* \*

(b) Paragraph (c)(2) (Maximum building height) shall not apply. In lieu thereof, the provisions of this paragraph, (b), shall apply:

- (1) The maximum building height in an R6 District shall be 65 feet or six #stories#, whichever is less, within 100 feet of Commercial Street, West Street, Dupont Street, Franklin Street and Kent Avenue. Beyond 100 feet of such #streets# and any other portions of an R6 District, the maximum building height shall be 110 feet. In R8 Districts, the maximum building height shall be 190 feet, except that for #zoning lots developed# with multiple #buildings#

or portions of #buildings# that exceed a height of 180 feet, not more than half of such #buildings# or portions of #buildings# may exceed a height of 190 feet, to a maximum building height of 290 feet. Such maximum building heights of 110 feet, 190 feet and 290 feet may be exceeded by a penthouse portion of a #building#, pursuant to the provisions of paragraph (b)(3) of this Section, ~~provided any #story# of a #building# within such penthouse portion does not exceed 85 percent of the gross area of the highest #story# of the same #building# entirely below a height of 110 feet, 190 feet or 290 feet, as applicable, and the maximum height of such penthouse portion does not exceed 40 feet.~~

- (2) For #developments# that provide #lower income housing# pursuant to Section 62-352 (Inclusionary ~~h~~Housing), the increased #floor area# permitted for such #developments# may exceed the height limits of an R8 District set forth in paragraph (b) of this Section, provided that the maximum building height shall be 260 feet, except that for #zoning lots developed# with multiple #buildings# or portions of #buildings# that exceed a height of 200 feet, not more than half of such #buildings# or portions of #buildings# may exceed a height of 260 feet to a maximum building height of 360 feet. Such maximum building heights of 260 feet and 360 feet may be exceeded by a penthouse portion of a #building#, pursuant to the provisions of paragraph (b)(3) of this Section, ~~provided any #story# of a #building# within such penthouse portion does not exceed 85 percent of the gross area of the highest #story# of the same #building# entirely below a height of 260 feet or 360 feet, as applicable, and the maximum height of such penthouse portion does not exceed 40 feet.~~

- (3) The maximum building height may be exceeded by a penthouse portion of a #building# with a height of not more than 40 feet, only if the gross area of any #story# within such portion has a #lot coverage# of at least 50 percent and not more than 85 percent of the highest #story# that is located entirely below the applicable maximum building height. Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the penthouse portion, where at least one setback on each face has a depth of at least four feet and a width that, individually or in the aggregate, is equal to at least ten percent of the width of such respective face. For the purposes of this paragraphs (b)(1) and (b)(2) of this Section, the penthouse portion shall have four faces, with each face being the side of the rectangle within which the outermost walls of the highest #story# located entirely below the maximum building height have been inscribed. The required setbacks shall be measured from the outermost walls of the #building# facing each penthouse portion face. Required setback areas may overlap.

- (c) Paragraphs ~~(c)(3) (#Floor area# distribution) and (c)(5) (Additional setback provisions for high #buildings#)~~ shall not apply.

\* \* \*

*N.B. Section 62-40 (REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AND VISUAL CORRIDORS, et seq., ) has been revised and renumbered as 62-50. Section 62-50 (SPECIAL PARKING AND LOADING REGULATIONS) has been renumbered as 62-40, et seq.*

**62-50 62-40**  
**SPECIAL PARKING AND LOADING REGULATIONS**

~~62-51~~ **62-41**  
**Special Regulations for Accessory Residential Parking**

The applicable district regulations pertaining to permitted or required off-street parking facilities #accessory# to #residential uses# shall apply to all #developments# on #waterfront blocks# except as modified in this Section or in Section ~~62-55~~ 62-45 (Supplementary Regulations for All Parking Facilities).

~~62-511~~ **62-411**  
**Accessory residential roof parking**

\* \* \*



- (c) trees are provided in accordance with Section ~~62-675~~ 62-655 (Planting and trees) at the rate of one tree for each ten parking spaces for parking areas at grade;

\* \* \*

~~62-512~~ 62-412

**Accessory residential off-site parking**

\* \* \*

- (e) in #Residence Districts#, no parking spaces are located within a required #front yard# or within four feet of any #lot line#. #Front yards# shall be planted and screening shall be provided along any #lot lines# in accordance with Section ~~62-675~~ 62-655 (Planting and trees);

\* \* \*

- (g) in all districts, trees shall be provided in accordance with Section ~~62-675~~ 62-655 at the rate of one tree for each ten parking spaces for on-site facilities within a #waterfront block#.

~~62-413~~ (Delete entire Section)

**Public access requirements for floating structures**

\* \* \*

~~62-414~~ (Delete entire Section)

**Requirements for upland connections**

\* \* \*

~~62-415~~ (Delete entire Section)

**Requirements for supplemental public access areas**

\* \* \*

~~62-416~~ (Delete entire Section)

**Special regulations for zoning lots that include parks**

\* \* \*

~~62-52~~ 62-42

**Special Regulations for Accessory Non-Residential Parking Facilities**

The applicable district regulations pertaining to permitted or required off-street parking facilities #accessory# to non-#residential uses# shall apply to all #developments# on #waterfront blocks# except as modified in this Section or in Section ~~62-55~~ 62-45.

~~62-521~~ 62-421

**Accessory non-residential roof parking**

On #waterfront blocks#, parking spaces #accessory# to non-#residential uses# may be located on the roof of a non-#residential building# or a non-#residential# portion of a #building# containing #residential use# provided that they comply with Section ~~62-511~~ 62-411 (Accessory residential roof parking) paragraphs (a) through (e).

~~62-522~~ 62-422

**Accessory non-residential off-site parking**

\* \* \*

~~62-53~~ 62-43

**Parking Requirements for Commercial Docking Facilities**

\* \* \*

In addition, passenger drop-off and pick-up areas shall be provided as set forth in Section ~~62-562~~ 62-462.

#Accessory# off-street parking or drop-off/pick-up area requirements for docking facilities serving ferries or sightseeing, excursion or sport fishing vessels may be modified by City Planning Commission authorization pursuant to the provisions of Section ~~62-721~~ 62-821.

\* \* \*

~~62-54~~ 62-44

**Parking and Loading Requirements for Floating Structures**

\* \* \*

~~62-55~~ 62-45

**Supplementary Regulations for All Parking Facilities**

\* \* \*

~~62-551~~ 62-451

**Parking spaces on floating structures**

No #accessory# parking spaces shall be located on a #floating structure# except in conjunction with a special permit pursuant to Section ~~62-733~~ 62-833 (Uses on floating structures).

\* \* \*

~~62-552~~ 62-452

**Off-site parking in public parking facilities**

\* \* \*

~~62-553~~ 62-453

**Screening requirements for parking facilities on waterfront blocks**

- (a) ~~All open parking areas on #waterfront blocks# shall be screened from all adjoining #zoning lots#, and from any public access area on the #zoning lot# pursuant to Section 62-675 (Planting and trees). Open parking areas shall also be screened from all #zoning lots# situated across a #street# pursuant to Section 62-675, except where the provisions of Section 37-921 (Perimeter landscaping) apply. Open parking areas on #waterfront blocks# shall be screened from all adjoining #zoning lots# pursuant to Section 62-655 (Planting and trees), paragraph (a)(7)(iii), or from a #street# or an #upland connection# pursuant to Section 37-921 (Perimeter landscaping). Screening may be interrupted only by vehicular or pedestrian entrances.~~

- (b) All parking garages that occupy the ground floor frontage along any #street# or ~~private drive which is also an~~ #upland connection# shall be screened in accordance with the planting requirements of Section ~~62-675~~ 62-655.

\* \* \*

~~62-56~~ 62-46

**Supplementary Regulations for Loading Facilities**

\* \* \*

~~62-561~~ 62-461

**Screening requirements for loading facilities on waterfront blocks**

All open off-street loading berths on #waterfront blocks# shall be screened from all adjoining #zoning lots#, including such #zoning lots# situated across a #street# and from all public access areas on the #zoning lot# pursuant to Section ~~62-675~~ 62-

655 (Planting and trees). Screening may be interrupted only by vehicular or pedestrian entrances.

\* \* \*

~~62-562~~ 62-462

**Passenger drop-off and pick-up areas for docking facilities**

\* \* \*

~~62-57~~ 62-47

**Special Parking and Loading Regulations for Waterfront Access Plan BK-1**

Within Waterfront Access Plan BK-1, the special parking and loading regulations of this Section are further modified as follows:

- (a) The provisions of Sections ~~62-544~~ 62-411 and ~~62-524~~ 62-421 shall not be applicable.

\* \* \*

*N.B. Section 62-50 (SPECIAL PARKING AND LOADING REGULATIONS) et seq. has been renumbered as 62-40, et seq.; Section 62-40 (REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AND VISUAL CORRIDORS), et seq., has been revised and renumbered as 62-50, et seq.:*

~~62-40~~ 62-50 (modified)

**GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS AND VISUAL CORRIDORS**

All #developments# on #zoning lots# within #waterfront blocks# shall be subject to the provisions of this Section and ~~the review provisions of Section 62-74~~ 62-81 (Certifications by the Chairperson of the City Planning Commission).

For the purpose of determining requirements for #waterfront public access areas#, pursuant to Section ~~62-41~~ or #visual corridors# pursuant to Section ~~62-42~~, the #lot area# of #waterfront zoning lots# shall be deemed to be the area of the #upland lot# and #water coverage# of structurally sound #piers# and #platforms# within the #seaward lot#.

All #waterfront public access areas# ~~and visual corridors~~, including those required pursuant to paragraph (b) of Section 62-51 (Applicability of Waterfront Public Access Area Requirements), shall comply with the provisions of ~~62-60 (DESIGN STANDARDS REQUIREMENTS FOR THE WATERFRONT PUBLIC ACCESS AREAS)~~, except as modified by:

- (a) authorization of the City Planning Commission, pursuant to Section 62-822 (Modification of waterfront public access area and visual corridor requirements);
- (b) special permit of the City Planning Commission, pursuant to Sections 62-833 (Uses on floating structures), 62-834 (Developments on piers and platforms) or 74-79 (Transfer of Development Rights from Landmark Sites); or
- (c) the establishment of a Waterfront Access Plan, pursuant to Section 62-90.

(portions of following text moved to 62-52(b))

- a) ~~as set forth otherwise in Section 62-415, paragraph (b), for public access areas in conjunction with #developments# that are:~~

- (1) ~~comprised #predominantly# of the following WD #uses#: docks for non-commercial pleasure boats, ferries, sightseeing, excursion or sport fishing vessels; #boatels#; or commercial beaches; or~~

- (2) ~~on #piers# or #platforms# that involve existing #buildings or other structures# that are either New York City designated landmarks or have been calendared for consideration, or are listed or eligible to be listed in the National or New York State Registers of Historic Places; or~~

- (3) ~~changes of #use# or #extensions# within #buildings# existing on October 25, 1993, and which involve, in aggregate, an amount of #floor area# less than 30 percent of the maximum #floor area# permitted on the #zoning lot# for either #commercial# or #residential use#, whichever is greater; or~~

- (4) ~~commercial #developments# comprising, in aggregate, a #floor area ratio# of less than 1.0 in M1 Districts; or~~

- (b) ~~However, the design of~~ for portions of #waterfront public access areas# located within New York State-designated wetlands or their adjacent regulated areas, ~~where the design of such portions shall be in accordance with an approval from the New York State Department of Environmental Conservation; or~~

- (e) ~~as set forth otherwise in a Waterfront Access Plan in Section 62-80.~~

In the event of a conflict between the provisions of this Section and a Waterfront Access Plan, the Plan shall control.

~~62-42~~ 62-51

**Requirements for Applicability of Visual Corridors Requirements**

\* \* \*

In the event the #visual corridor# requirement imposed on the #zoning lot# exceeds 50 percent of the #lot width#, or there is no way to provide a #visual corridor# in compliance with Section ~~62-424~~ 62-511, no #visual corridors# shall be required.

\* \* \*

~~62-424~~ 62-511

**Location of visual corridors**

\* \* \*

~~62-422~~ 62-512

**Dimensions of visual corridors**

\* \* \*

No obstructions are permitted within a #visual corridor#, except as set forth in Sections ~~62-513~~ and 62-60 (DESIGN REQUIREMENTS STANDARDS FOR THE WATERFRONT PUBLIC ACCESS AREAS), inclusive, when a #visual corridor# coincides with an #upland connection#.

\* \* \*

~~62-642~~ 62-513 (modified)

**Design requirements for Permitted obstructions in visual corridors**

The requirements of this Section shall apply to all #visual corridors#. ~~When a #visual corridor# coincides with an #upland connection#, the provisions of Section 62-641 (Design requirements for upland connections) shall also apply.~~

No #building or other structure# shall be erected within the width of a #visual corridor# above its lowest level, as established pursuant to Section ~~62-492~~ 62-512 (Dimensions of visual corridors), except as provided in this Section. Permitted obstructions within #visual corridors# in all districts shall be limited to those allowed for #waterfront yards# listed in Section 62-332, except that the following obstructions shall also be permitted:

- (a) boats, ships or other vessels, and #floating structures# permitted ~~as of right~~ by paragraph (a) of Section 62-25;
- (b) any moving or parked vehicles or street furniture, including but not limited to, benches, seats, kiosks, carts and open display booths, lighting fixtures, flagpoles, trash receptacles, drinking fountains and public telephones;
- (c) guardrails and fences and other protective barriers, provided they comply with the design standards of Section ~~62-674~~ 62-651, ~~except that fences may be eight feet high;~~

- (d) planting areas, provided that no shade trees are planted within a 15-30 foot wide area, with 15 feet of such area located along both each sides of the centerline of the visual corridor, except that shade trees shall be a permitted obstruction when provided within an open surface parking lot; and
- (e) swimming pools, provided no portion projects more than 18 inches above the lowest level of a visual corridor.

**62-41 62-52 (modified)**

**Requirements for Applicability of Waterfront Public Access Area Requirements**

Waterfront public access areas shall be provided for all developments on waterfront zoning lots with a lot area of at least 10,000 square feet and a shoreline of at least 100 feet, and for all developments on floating structures in accordance with the provisions of the following Sections. However, the following shall be exempted:

- Section 62-53 Requirements for Shore Public Walkways  
Section 62-54 Requirements for Public Access on Piers  
Section 62-55 Requirements for Public Access on Floating Structures  
Section 62-56 Requirements for Upland Connections  
Section 62-57 Requirements for Supplemental Public Access Areas.

However, developments listed in paragraph (a) of this Section shall be exempted from waterfront public access area requirements; developments listed in paragraph (b) of this Section shall provide a waterfront public access area only as referenced therein.

- (a) The following shall be exempted from waterfront public access area requirements:

airports, heliports and seaplane bases;

developments comprising predominantly WD uses, except for the following uses as provided for in Section 62-415, paragraph (b): docks for non-commercial pleasure boats; ferries; sightseeing, excursion or sport fishing vessels; boatels; or commercial beaches;

developments comprised of predominantly WD uses, except as set forth in paragraph (b)(1) of this Section;

developments in C8 or Manufacturing Districts comprising predominantly uses in Use Groups 16, 17 or 18, except for docks serving sightseeing, excursion or sport fishing vessels as provided for in Section 62-415, paragraph (b);

developments in C8 or Manufacturing Districts, comprised of predominantly Use Group 16, 17 or 18 uses, as listed in Article III, Chapter 2, and Article IV, Chapter 2, except as set forth in paragraph (b)(2) of this Section;

developments in R1 or R2 Districts;

developments comprising of single- or two-family residences within detached, semi-detached or zero lot line buildings, in any district;

developments comprising predominantly residential use in R3, R4, R5, C3 or C4-1 Districts and in C1 or C2 Districts mapped within R1 through R5 Districts;

developments in R3, R4, R5, C3 or C4-1 Districts and in C1 or C2 Districts mapped within R1 through R5 Districts, comprised of predominantly residential uses;

developments on piers or platforms that involve existing buildings or other structures that are either New York City designated landmarks or have been calendared for consideration, or are listed or eligible to be listed in the National or New York State Registers of Historic Places, which shall be subject only to the provisions of Section 62-415, paragraph (b);

enlargements which in aggregate involve an increase in floor area (or for open uses, lot area) of less than 50 percent of the amount existing on October 25, 1993, and not more than 20,000 square feet;

extensions which in aggregate involve an increase in the amount of floor area occupied by such existing uses of less than 50 percent of the amount existing on October 25, 1993, and not more than 20,000 square feet;

changes of use, provided that if such changes involve changes from exempt uses, as listed in this Section, to non-exempt uses, where the aggregate amount of floor area or lot area involved is less than 50 percent of the amount existing on October 25, 1993, and not more than 20,000 square feet.

changes of use or extensions that exceed the 50 percent or 20,000 square foot threshold above, but are within buildings existing on October 25, 1993, and which involve, in aggregate, an amount of floor area less than 30 percent of the maximum floor area permitted on the zoning lot for either commercial or residential use, whichever is greater. Such changes of use or extensions shall be subject only to the provisions of Section 62-415, paragraph (b); and

commercial developments comprising, in aggregate, a floor area ratio of less than 1.0 in M1 Districts. Such developments shall be subject only to the provisions of Section 62-415, paragraph (b).

(from 62-40(a), modified)

- (b) Waterfront public access areas required in conjunction with the following developments shall be subject to the minimum waterfront public access area set forth in the table in Section 62-57 and the requirements of Section 62-58 (Requirements for Water-Dependent Uses and Other Developments).

- (1) developments comprised predominantly of the following WD uses: docks for non-commercial pleasure boats, ferries, sightseeing, excursion or sport fishing vessels; boatels; or commercial beaches;

- (2) developments on piers or platforms that involve existing buildings or other structures that are either New York City-designated landmarks or have been calendared for consideration, or are listed or eligible to be listed in the National or New York State Registers of Historic Places; or

- (3) changes of use or extensions within buildings existing on October 25, 1993, which involve, in aggregate, an amount of floor area that is less than 30 percent of the maximum floor area permitted on the zoning lot for either commercial or residential use, whichever is greater.

**62-411 62-53 (modified)**

**Requirements for Shore Public Walkways**

- (a) Except for developments subject to the provisions of Section 62-415, paragraph (b), all developments on waterfront zoning lots meeting the criteria set forth in the following table or on floating structures shall provide a shore public walkway along the entire length of the shoreline, including the water edge perimeter of a platform projecting from a portion of the shoreline. Such shore public walkway shall be:

All developments on waterfront zoning lots meeting the criteria set forth in Section 62-52 (Applicability of Waterfront Public Access Area Requirements), or for floating structures, shall provide a shore public walkway, which shall comply with the following requirements:

- (1) located along the Such shore public walkway shall have a seaward edge contiguous with the seaward edge of the waterfront yard as established in Section 62-332 (Rear yards and waterfront yards), with a minimum width measured from such edge as set forth in the following table paragraph (a)(2) of this Section, or for floating structures, as set forth in Section 62-413-62-55, unless relocation or modification of width is permitted pursuant to this Section or Section 62-60 (DESIGN STANDARDS FOR THE WATERFRONT AREA);

- (2) permitted to be reduced in width on shallow portions of the zoning lot or narrow portions of platforms using the same method as set forth for waterfront yards in Section 62-332, except that a reduction shall be permitted below a 150-foot dimension in lieu of the dimensions set forth in Section 62-332,

paragraphs (a) and (b). The reduction factor, in all cases, shall be one foot for each two feet that the dimension is less than 150 feet, provided no #shore public walkway# is reduced to less than ten feet; and

Such #shore public walkway# shall have a minimum width of 30 feet for #predominantly community facility# or #commercial uses# in R3, R4, R5 and C3 Districts, and in C1 and C2 Districts mapped within R1 through R5 Districts. The minimum width for a #shore public walkway# provided for a #development# in all other districts, other than R1 and R2 Districts, shall be 40 feet.

SHORE PUBLIC WALKWAY WIDTH

#Developments# in the Following Districts	#Zoning Lot# Threshold	Required #Shore Public Walkway# Width
In R3, R4, R5 Districts; C1 or C2 in R1 thru R5 Districts; and C3 Districts	#Lot area# of 10,000 sq. ft. and #shoreline# length of 100 ft	30 ft.
In all other Districts; (except R1 and R2)	#Lot area# of 10,000 sq. ft. and #shoreline# length of 100 ft	40 ft.

(3) The minimum width of the #shore public walkway# set forth in paragraph (a)(2) of this Section may be reduced at the following locations provided no #shore public walkway# is reduced to less than 10 feet:

(i) on shallow portions of #zoning lots# that are less than 150 feet in depth, the minimum width of a #shore public walkway# may be reduced by one foot for every two feet that the lot dimension, measured from such edge, is less than 150 feet;

(ii) on narrow portions of #platforms# that are less than 150 feet in depth between the water edges located perpendicular to the landward edge of such #platform#, the minimum width of such #shore public walkway# along each opposite edge may be reduced by one foot for every two feet that the #platform# dimension is less than 150 feet.

(3) at a level not higher than the level of the #waterfront yard#.

(b) In the case of a natural #shoreline# within New York State-designated wetlands, the #shore public walkway# shall be permitted to be relocated using either of the following methods:

(1) further landward within the designated wetlands or its adjacent regulated area, in accordance with an approval from the New York State Department of Environmental Conservation, in which case its width and design shall be determined by such agency; or

(2) immediately adjacent and contiguous to the landward boundary of the wetlands area and any State-regulated adjacent area at the same elevation, in which case its width shall be measured from the seaward edge, as relocated;

(c) #Shore public walkways# on a #zoning lot# shall be accessible from a public sidewalk within a public #street#, #public park# or other accessible open public place, in accordance with according to the provisions of Section 62-414 62-56 (Requirements for upland connections). Such #Shore public walkways# shall also connect with #shore public walkways# on adjoining #zoning lots#.

(d) Whenever a #zoning lot# is divided by a boundary between districts, each portion of the #shore public walkway# shall be governed by the width

specified for the district in which it is located. However, the total area of required #shore public walkway#, in square feet, may be distributed anywhere in the #waterfront yard#, provided that the #shore public walkway# is at no point narrower than the lesser of the widths required by each district.

62-412 62-54 (modified)

Requirements for #Public Access on #Piers#

(a) All #developments# on #zoning lots# containing #piers# shall provide #waterfront public access areas# that meet in accordance with the provisions of this Section.

#Waterfront public access areas# on #piers# shall consist of the following:

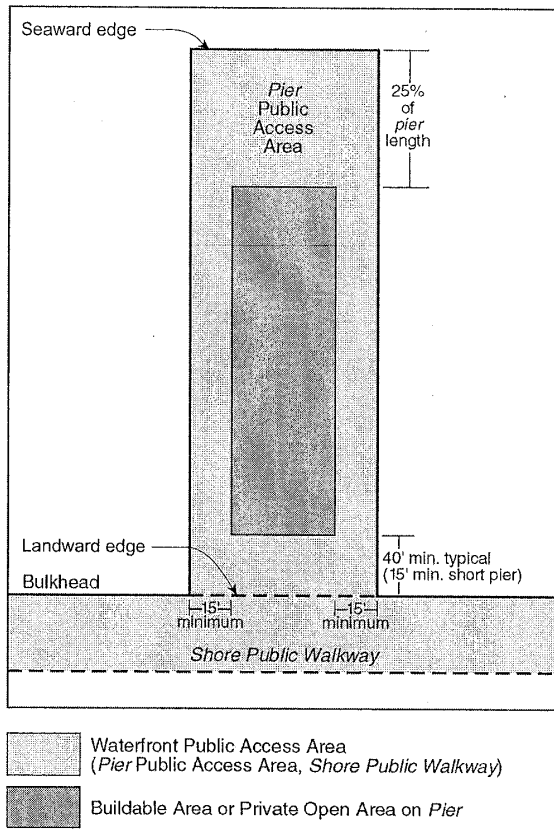
(a-1) an area along the seaward edge of the #pier#, having a depth measured from such edge equal to 25 percent of the overall length of the #pier#. However, building projections into the required public access area are permitted provided that the aggregate width of all projections at the level of any #story# does not exceed 50 percent of the aggregate width of the #building#. Any such projection shall not reduce the depth of the required area by more than 20 percent and shall not be included in the computation of public access area provided on the #pier#. In no event shall the depth of the public access area be less than 15 feet; an area along the seaward edge of the #pier# having a depth measured from such seaward edge equal to at least 25 percent of the overall length of the #pier#. Portions of #buildings# may project into the required #waterfront public access area#, provided that the aggregate width of all such projections at the level of any #story# does not exceed 50 percent of the aggregate width of the #building#. The depth of the required #waterfront public access area# may be reduced by no more than 20 percent; such projections shall not be included in the computation of #waterfront public access area# provided on the #pier#. In no event shall the depth of the public access area be less than 15 feet;

(b-2) an area along the landward portion of the #pier# having a depth of at least 40 feet, measured seaward from the bulkhead, stabilized or natural #shoreline#, or #platform# edge from which the #pier# projects. However, the depth of such area, however, need not exceed 25 percent of the length of the #pier#. In no event shall the depth of such area be reduced to less than 15 feet; and or

(e-3) an area along all other water edges of the #pier#, having a depth of at least 15 feet measured from such edges. For portions of #piers# wider than 80 feet, the depth along the edges of such portion shall be increased by three inches for each additional foot of #pier# width over 80 feet, but need not exceed a total of 60 feet, in aggregate, for both all other edges. Such areas along water edges which are directly opposite each other may be aggregated so that the entire area is along one edge. Alternatively, the required area may also be allocated to such opposite edges so that the total aggregate depth is maintained with a minimum 15 foot depth along any edge.

(b) Notwithstanding the preceding requirements of paragraph (a) of this Section, when a #pier# is #developed predominantly# with the following #uses#: a #public park# or playground or private park, the #waterfront public access area# requirement on the #pier#, pursuant to Sections 62-416 62-52 and Section 62-60 (DESIGN STANDARDS REQUIREMENTS FOR THE WATERFRONT PUBLIC ACCESS AREAS), inclusive, shall be deemed to be satisfied by such #use#.

#Pier# public access areas shall be directly accessible from a #shore public walkway#, #upland connection# #waterfront public access area#, public sidewalk within an open #street#, #public park# or other accessible public place, or other public access area. For those #pier# public access areas provided pursuant to the preceding paragraph #piers# #developed predominantly# with a playground or private park, the minimum width of such connection shall be equal to at least 50 percent of the width of the #pier# width where it projects from the bulkhead, stabilized or natural #shoreline# or #platform# edge.



**PUBLIC ACCESS REQUIREMENTS ON FOR PIERS DEVELOPMENT**

(new graphic - existing graphic deleted)

**62-413 62-55**

**Public access Requirements for Public Access on Floating Structures**

All developments on floating structures permitted as-of-right, pursuant to Section 62-25, shall provide waterfront public access areas in accordance with the provisions of this Section. Developments subject to a special permit pursuant to Section 62-733 62-833 shall provide public access in accordance with a plan established pursuant to such special permit.

- (a) Public access in conjunction with a development on a floating structure shall consist of a 30 foot wide shore public walkway along the entire length of the shoreline, including the water edge perimeter of a platform projecting from any portion of the shoreline in accordance with the provisions of Section 62-411 62-53. In the event that there is additional development on the zoning lot requiring a 40 foot width, the greater width shall be provided.
- (b) When the primary entrance to a floating structure is located on a pier, and there is no other development on the pier that would require pier public access, a 15 foot wide public access area shall be provided in addition to the shore public walkway, along the full length of one of the longer water edges of the pier. Such public access area shall be directly connected to the shore public walkway.

**62-414 62-56**

**Requirements for Upland Connections**

All waterfront public access areas provided pursuant to Sections 62-411 62-53 (Requirements for Shore Public Walkways), 62-412 62-54 (Requirements for Public Access on Piers) or 62-413 62-55 (Public access Requirements for Public Access on Floating Structures) shall be accessible from an open public street, public park or other public place at intervals along the shore public walkway not to exceed 600 feet by means of either: a direct connection or, where no direct connection exists, an upland connection between the shore public walkway and an adjoining public sidewalk within an open public street, public park or other public place.

- (1) a direct connection between the public access area and an adjoining public sidewalk or other pedestrian area within a public street, public park or other public place; or
- (2) a publicly traversable way through the zoning lot or adjoining zoning lots directly connecting with a public sidewalk or other pedestrian area within a public street, public park or other public place.

(b) Upland connections provided through a zoning lot shall meet the following requirements:

- (1) The required width of the connection shall be as set forth in Column A of the following table. Such width may be reduced on zoning lots having a lot width less than 150 feet by an amount equal to one foot for each two feet that the lot width is less than 150 feet. However, in no event shall the width be less than the minimum width specified in Column B of the table.

As an alternative, a private drive on the zoning lot may be used for all or a portion of an upland connection. For the purpose of computing the area of an upland connection within a private drive, the vehicular roadway shall be excluded.

- (2) Where there is an intervening zoning lot that would prevent compliance with paragraph (a) of this Section, the upland connection interval may be increased to a greater distance. Such increase shall be the minimum necessary to clear the intervening zoning lot. In the event there is no way to provide the upland connection without encroaching on an intervening zoning lot, the upland connection shall not be required.

Where there is an intervening zoning lot that would prevent compliance with the maximum interval, such interval may be increased to the minimum necessary to clear the intervening zoning lot. In the event there is no way to provide the upland connection without encroaching on an intervening zoning lot, the upland connection shall not be required.

- (3) Where an upland connection traverses portions of a zoning lot located in districts in which different width requirements apply, in accordance with the following table, the width of the upland connection shall be computed as the weighted average based on the length of the upland connection in each district.

**WIDTH REQUIREMENTS FOR UPLAND CONNECTIONS THROUGH ZONING LOTS**

Districts	Column A	Column B
	Basic Minimum	Narrow Lot Reduction Minimum
R3 R4 R5	20 ft.	12 ft.
C1, C2 mapped in R1 thru R5 Districts; C3 Districts	20 ft.	12 ft.
All other Districts (except R1 and R2)	30 ft.	16 ft.

**62-561**

**Types of upland connections**

Upland connections shall be provided as a single pedestrian walkway pursuant to paragraph (a) of this Section or as two pedestrian walkways pursuant to paragraph (b) of this Section.

(a) Single pedestrian walkway (Type 1)

- (1) The minimum width of an upland connection provided in the form of a single pedestrian walkway (hereinafter referred to as "Type 1") shall be as set forth in the table in this Section. Such widths shall be increased by 20 feet within 15 feet of a street.

#public park# or other public place, hereinafter referred to as an "entry area".

Such widths may be reduced on #zoning lots# having a #lot width# less than 150 feet; the minimum width of a single pedestrian walkway may be reduced by an amount equal to one foot for each two feet that the lot is less than 150 feet. However, in no event shall the width be less than the reduced minimum width specified in the table.

*(moved/modified from 62-56)*

MINIMUM WIDTH FOR TYPE 1 UPLAND CONNECTIONS

<u>Districts</u>	<u>Minimum width (in feet)</u>	<u>Reduced minimum width (in feet)</u>
<u>R3 R4 R5</u> <u>C1 C2 mapped in R1 thru R5</u> <u>C3</u>	<u>20</u>	<u>12</u>
<u>R6 R7 R8 R9 R10</u> <u>C1 C2 C4 C5 C6 C7 C8</u> <u>M1 M2 M3</u>	<u>30</u>	<u>16</u>

- (2) Where an #upland connection# does not coincide with a #visual corridor#, a 20 foot wide open area shall be required seaward of the "entry area", and shall extend along the entire remaining length of the #upland connection# but need not be publicly accessible. This open area may be located on either side of the #upland connection# or aggregated in any combination, so that the total width of the open area, at any point along the #upland connection#, is 20 feet. Such increased widths may be modified in accordance with the reduced minimum width provisions in paragraph (a)(1) of this Section.
- (3) Where an #upland connection# traverses portions of a #zoning lot# located in districts in which different width requirements apply, the width of the #upland connection# shall be computed as the weighted average based on the length of the #upland connection# in each district.

(b) Two pedestrian walkways (Type 2)

- (1) The minimum width of an #upland connection# provided in the form of two pedestrian walkways, one on each side of the roadbed of a private driveway (hereinafter referred to as "Type 2"), shall be 13 feet for each such walkway. However, where a private driveway terminates in a vehicular turn-around, the minimum width of the #upland connection# abutting such turn-around shall be ten feet.
- (2) In addition, a "transition area" shall be provided which shall have a width equal to the combined width of the Type 2 #upland connection# and the roadbed, and shall extend for a distance of 40 feet measured from the termination of such roadbed in the direction of the #shore public walkway#, as shown in Illustrations 1 and 2 in this Section, for roadbeds that turn and roadbeds that terminate in a turn-around, respectively.
- (3) Such "transition area" is not required for roadbeds that turn and are located within 15 feet of a #shore public walkway#, or for #waterfront zoning lots# that are less than 255 feet in depth and 260 feet in width. However, for #waterfront zoning lots# that are less than 255 feet in depth and 260 feet in width, an area of at least 10 feet in width shall be provided between the edge of the roadbed and the upland boundary of the #shore public walkway#, as shown in Illustration 3 of this Section.

62-415 62-57

Requirements for sSupplemental pPublic aAccess aAreas

- (a) If the aggregate area of the required #shore public walkways#, #upland connections#, public access areas on #piers#, and public access areas in

conjunction with #floating structures# on the #zoning lot#, is less by 750 square feet or more than the amount of #waterfront public access area# required by the ~~following table in this Section~~, then #supplemental public access areas# shall be provided in order to meet the total amount of #waterfront public access area# required by the table. However, when a #zoning lot# is #developed predominantly# ~~with the following WE #uses#:~~ ~~a #public park# or as a playground or publicly accessible private park,~~ the requirements of this Section shall be deemed to be satisfied by such #use#.

- (b) Where #supplemental public access areas# are required within New York State-designated wetlands or adjacent State-regulated areas, the area requirements and the design standards for such #supplemental public access areas# may be reduced or modified by the New York State Department of Environmental Conservation.

#Supplemental public access areas# shall not be required where the total area of such designated wetlands and adjacent State-regulated areas on the #zoning lot# is equal to or greater than the total #supplemental public access area# requirement and the Department of Environmental Conservation determines that public access to such areas is not permitted.

*(moved to 62-58)*

- (e) ~~For #developments# listed in Section 62-40 paragraph (a)(1), on #zoning lots# containing a public access area established prior to October 25, 1993, by restrictive declaration, lease agreement, maintenance and operation agreement, or other agreement with a public entity, which public access area is required to be provided for a period not less than the anticipated life of the new #development#, the requirement for public access shall be met if the established public access area is substantially in compliance with the provisions of the first paragraph of paragraph (b) of this Section.~~

- (d) Whenever a #zoning lot# is divided by a boundary between districts in which different thresholds apply pursuant to the table in this Section, the #waterfront public access area# requirement shall be met for the entire #zoning lot#, ~~and if provided that:~~

- (1) the #lot area# or length of #shoreline# in either district is less than the minimum threshold for which there is a total #waterfront public access area# requirement; and
- (2) the total #lot area# or length of #shoreline# for the entire #zoning lot# is greater than the lowest threshold in either district for which there is a total #waterfront public access area# requirement; ~~then,~~

~~the waterfront public access area requirement shall be met for the entire #zoning lot#. Each portion of the #zoning lot# shall generate a total waterfront public access area requirement based on the percentage of public access area required in the table for the district in which it is located. All public access areas on the #zoning lot#, regardless of their location, may be used to satisfy the total requirement for the #zoning lot# and #supplemental public access areas# may be located anywhere on the #zoning lot# in accordance with the provisions of Section 62-60.~~

Each portion of the #zoning lot# shall generate a total #waterfront public access area# requirement based on the percentage required in the table for the district in which it is located.

WATERFRONT PUBLIC ACCESS AREA REQUIREMENTS

<u>#Developments# in the Following Districts</u>	<u>#Zoning Lot# Threshold</u>	<u>Total #Waterfront Public Access Area# Requirement as a Percentage of #Lot Area#</u>
<del>In</del> R3 R4 R5 Districts	<del>#Lot area# of</del> 10,000	15
C1 or C2 in R1 through R5 Districts	65,340 sq. ft.	
C3 C4-1 Districts	and #sShoreline# length: of 600 ft.	

~~In~~ R6 7-1 R7-2 R7A #Lot area#: ~~of~~ 10,000 15  
 R7B R7D R8B 20,000 sq. ft.  
~~Districts~~ and ~~in~~  
 #Commercial Districts#  
 governed by the #bulk#  
 regulations of such  
 #Residence Districts#  
 and #sShoreline# length: of  
 100 ft.

~~In~~ ~~a~~All other  
 #Commercial# or  
 #Manufacturing  
 Districts# with a  
 permitted commercial  
 FAR of 4.0 or less

~~In~~ ~~o~~Other R7 R8 R9 #Lot area#: ~~of~~ 10,000 20  
~~and~~ R10 Districts and ~~in~~ 20,000 sq. ft.  
 #Commercial Districts#  
 governed by the #bulk#  
 regulations of such  
 #Residence Districts#  
 and #sShoreline# length: of  
 100 ft.

~~In~~ ~~a~~All other  
 #Commercial# or  
 #Manufacturing  
 Districts# with a  
 permitted commercial  
 FAR above 4.0

A #supplemental public access area# shall also be subject to the provisions of Section 62-62 (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas).

**62-571**  
**Location and area requirements for supplemental public access areas**

#Supplemental public access areas# shall adjoin a #shore public walkway# in accordance with the requirements of this Section, except as modified by paragraphs (a) and (b) of Section 62-57, and the provisions of this Section:

- (a) The minimum area of the #supplemental public access area#:
- (1) when located at the intersection of a #shore public walkway# and an #upland connection# or #street#, shall be 750 square feet, have a minimum width to depth ratio of 1:1 and a maximum width to depth ratio of 3:1. The longest side shall adjoin the #shore public walkway#; or
  - (2) when located adjoining a #shore public walkway# without adjoining an #upland connection# or #street#, shall be 1,875 square feet and have a minimum width to depth ratio of 3:1. The minimum depth perpendicular to the #shore public walkway#, as a weighted average, shall be 25 feet.

The width to depth requirements of paragraphs (a)(1) and (a)(2) of this Section may be satisfied with weighted average dimensions. The minimum angle between the two boundary lines of a #supplemental public access area# coinciding with the private portion of the #zoning lot# shall be 90 degrees.

- (b) A #supplemental public access area# may be provided:
- (1) to widen the #shore public walkway#, with a minimum width of 10 feet running continuously along the #shore public walkway# between any two of the following: an #upland connection#, open #street#, #public park# or other public place;
  - (2) as a pedestrian sidewalk area abutting a roadbed running along the #shoreline#, provided such sidewalk has a minimum width of 13 feet and complies with the provisions for a Type 2 #upland connection# pursuant to Section 62-64. Any additional #supplemental public access area# shall comply with the requirements of this Section; or

- (3) as a dedicated bicycle path if such path connects at each end to an open #street#. The minimum width of a bicycle path shall be 10 feet, with an additional two foot clearance on each side along the entire length of the path. There shall be a planted area between a bicycle path and a paved area for pedestrian use, pursuant to the requirements of paragraph (c) of Section 62-62.

**62-415 62-58** (modified)  
**Requirements for supplemental public access areas Water-Dependent Uses and Other Developments**

#Developments# on #waterfront zoning lots# listed in paragraph (b) of Section ~~62-41~~ 62-52 (Applicability of Waterfront Public Access Area Requirements) shall provide a minimum amount of #waterfront public access area# in accordance with the table in Section 62-57 (Requirements for Supplemental Public Access Areas).

(62-415(b), revised)

The total #waterfront public access area# requirement in such table shall be provided in any manner that will enable the public to access a waterfront viewing area on the #zoning lot# from a public sidewalk within a #street#, #public park# or other public place. Such viewing area shall provide an unobstructed view of the water and comprise at least 50 percent of the total #waterfront public access area# required on the #zoning lot#. One linear foot of seating shall be provided for every 100 square feet of viewing area.

#Waterfront public access areas# improved in accordance with this Section shall comply with the provisions of Sections 62-61 (General Provisions Applying to Waterfront Public Access Areas) and 62-65 (Public Access Design Reference Standards).

(62-415(c), modified)

For #developments listed in Section ~~62-40~~ paragraph (a)(1) of Section 62-52, on #zoning lots# containing a public access area established prior to October 25, 1993, by restrictive declaration, lease agreement, maintenance and operation agreement, or other agreement with a public entity, which public access area is required to be provided for a period not less than the anticipated life of the new #development#, the requirements for #waterfront public access area# shall have been met if the established public access area is substantially in compliance with the provisions of ~~the first paragraph of paragraph (b) of this Section.~~

**62-416 62-59** (modified)  
**Special Regulations for #Zoning #Lots that #Include #Parks**

- (a) In M2 and M3 Districts ~~as permitted in~~ pursuant to Section 62-27 (Special Use Regulations for Playgrounds or Private Parks), where a #zoning lot# or adjoining #zoning lots# are #predominantly developed# as a park, the requirements of Sections ~~62-41~~ 62-50, inclusive, and ~~Section~~ 62-60, inclusive, shall be deemed satisfied for that portion of the #zoning lots# occupied by such park #use#, provided that:

\* \* \*

- (7) #visual corridors# shall be provided in accordance with Section ~~62-42~~ 62-51 (Requirements for Applicability of Visual Corridors).

\* \* \*

The filing of such declaration, where required, shall be a precondition to certification pursuant to paragraph (e) of Section ~~62-71~~ 62-811.

Any portion of a #zoning lot# that is not #developed# for a park #use# shall be subject to all of the requirements of Sections ~~62-40~~ 62-50 and 62-60. For purposes of determining obligations pursuant to this Section, such portions of a #zoning lot# not used for park purposes shall be treated as a separate #zoning lot# or separate #zoning lots#, except that the entire #zoning lot#, including the portion used for park purposes, shall be considered in determining #lot area# for purposes of Section ~~62-41~~ 62-53 (Requirements for ~~sShore #Public #Walkways~~).

- (b) In order to implement the East River Waterfront Esplanade and Piers Project described in the Final Environmental Impact Statement (FEIS) dated May 18 2007, of the Lower Manhattan Development Corporation and the record of decision (ROD) adopted by such corporation on November 7, 2007 (the ERW Project), in C2-8, C4-6, C6-4 and M1-4 Districts located in Manhattan Community Districts 1 and 3, for #zoning lots predominantly developed# as publicly accessible open space under the ERW Project, the Chairperson shall allow for the phased implementation of such publicly accessible open space, and the requirements of Sections ~~62-40~~ 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND

WATERFRONT PUBLIC ACCESS AREAS AND VISUAL CORRIDORS), inclusive, and 62-60 (DESIGN STANDARDS REQUIREMENTS FOR THE WATERFRONT PUBLIC ACCESS AREAS), inclusive, shall be deemed satisfied, provided that:

- (1) the application for certification pursuant to Section ~~62-74~~ 62-811 for any such phase(s) includes a report demonstrating that:

\* \* \*

No excavation or building permit shall be issued for #development# under any phase for publicly accessible open space under the ERW Project certified pursuant to Section ~~62-74~~ 62-811 in accordance with this paragraph, (b), until all applicable Federal, State and local permits and approvals have been received with respect to such phase, including, without limitation, permits and approvals of the New York State Department of Environmental Conservation.

#### 62-60

#### DESIGN STANDARDS REQUIREMENTS FOR THE WATERFRONT PUBLIC ACCESS AREAS

62-61 (portions of 62-62, 62-625, 62-627, modified)

#### Design Options and Methodology General Provisions Applying to Waterfront Public Access Areas

(from 62-62(c))

- (a) All #waterfront public access areas# shall be unobstructed from their lowest level to the sky, except as set forth in Section ~~62-626~~ 611 (Permitted obstructions). The lowest level of any portion of a #waterfront public access system area# on a #zoning lot# shall be determined by the elevation of the adjoining portion of the system on the same or an adjoining #zoning lot# or the public sidewalk to which it connects. Reference elevations shall be established from the public sidewalks, #waterfront yard# levels and the elevations previously established by adjoining #zoning lots# at #lot line# intersections of a waterfront public access network, as applicable.
- (b) The minimum required circulation path shall be connected and continuous through all #waterfront public access areas# on adjacent #zoning lots#.

(from 62-62(a))

- (c) #Waterfront public access areas# shall be accessible to the handicapped persons with physical disabilities in accordance with the Americans with Disabilities Act and the American National Standards Institute (ANSI) design guidelines.

(from 62-625)

- (d) All #waterfront public access areas# improved for public access shall meet the following regulations for site grading:

- (1) ~~Pedestrian circulation zone~~ In required circulation paths

- (i) ~~for cross-sectional grading regulations for circulation paths~~ (perpendicular to the general direction of pedestrian movement), ~~the~~ minimum slope of a required circulation path shall be one and one-half percent (1.5%) to allow for positive drainage and the maximum slope shall be three percent (3.0%). Steps, ~~and~~ stairways ~~and~~ ramps accommodating a cross-sectional grade change are only permitted ~~in a pedestrian circulation zone~~ outside of the required circulation path(s) ~~and in compliance with the regulations for handicapped accessibility.~~
- (ii) ~~for~~ longitudinal grading controls ~~for circulation paths~~ (parallel to the general direction of pedestrian movement), ~~Longitudinal~~ grade changes ~~are~~ shall be permitted along the length of a required circulation path by means of steps or ramps in compliance with the requirements for handicapped accessibility.

- (3) ~~Transition zones~~

~~No steps shall be permitted in a required pedestrian circulation path within the boundaries of a transition zone.~~

- (b2) ~~Buffer zones~~ In required planting areas, including screening buffers

Within five feet of the ~~boundary line of a pedestrian circulation zone edge of any planting area~~, the grade level of ~~the buffer zone~~ such planting area shall ~~not~~ be no more than 18 inches higher or lower than the adjoining level of the pedestrian circulation ~~zone~~ path.

(from 62-627)

- (e) Vehicle and emergency access

Vehicular access is prohibited within #waterfront public access areas# except for emergency and maintenance vehicular access. Parking areas, passenger drop-offs, driveways, loading berths and building trash storage facilities are not permitted within, or allowed to be accessed or serviced through, a #waterfront public access area#, except for: (a) vehicular access to drop-offs and other required services #accessory# to docking facilities; or (b) ~~vehicular access~~ to #development# on a #pier# or #floating structure#.

Such vehicular ways shall be used only to provide access across the #shore public walkway#. No single driveway shall exceed a width of 25 feet. ~~Paving and bollards~~ shall be installed in accordance with Section ~~62-674~~ 62-651. ~~There shall be a minimum four inch and maximum seven inch grade change between the driveway and any adjoining pedestrian circulation zone, satisfied by a curb or sloped paving surface.~~ Curbs shall have a minimum width of six inches. When a sloped surface is provided, a A minimum 12 inch paved border shall be installed ~~within~~ along the driveway ~~boundaries where the slope terminates.~~ Curbs and paved borders shall have a color distinct from the paving of the adjoining ~~pedestrian circulation zone paved surface.~~

Vehicular roadways are permitted as part of an #upland connection# in accordance with the regulations of Section ~~62-64~~ 62-56.

Any vehicular roadway crossing a required #waterfront public access area# shall comply with the requirements for paving in Section ~~62-676~~ 62-656.

62-611 (based on 62-626, revised)

#### Permitted obstructions

#Waterfront public access areas# shall be unobstructed from their lowest level to the sky except that the obstructions listed in this Section shall be permitted, as applicable. However, no obstructions of any kind shall be permitted within a required circulation path.

- (a) In all areas

- (1) Trees and other plant materials, including grasses, vines, shrubs and flowers, watering equipment, arbors, trellises, observation decks, retaining walls;
- (2) Seating, litter receptacles, drinking fountains, other outdoor furniture;
- (3) Fountains, reflecting pools, waterfalls, sculptures and other works of art, temporary exhibitions;
- (4) Open air cafes and kiosks, in accordance with the provisions of paragraph (e) of this Section;
- (5) Lights and lighting stanchions, flag poles, bollards and guardrails, exercise and other recreational equipment.

- (b) In screening buffers

- (1) Paved entrances to #buildings# fronting upon a screening buffer, including awnings and canopies over such entrances, seating located within 42 inches of an adjacent paved area, bike racks within six feet of the sidewalk of an open accessible #street# or within ten feet of an #upland connection#;
- (2) Service equipment necessary for maintenance of #waterfront public access areas# or the functioning of adjacent structures such as watering equipment, sheds for tool storage, and electrical transformers or other mechanical or electrical service devices,



provided all such equipment covers no more than 100 square feet in any location and has a maximum height of ten feet. Such obstructions shall be screened in accordance with Section 62-655 (Planting and trees);

- (3) Exhaust vents located on building walls fronting on the screening buffer, only if the bottom of such vent is a minimum of ten feet above the adjacent ground level and projects no more than four inches from the building wall.

(c) Beyond 20 feet of the #shoreline#

Tot-lots, playgrounds, dog runs, public telephones, toilets, bicycle racks.

- (d) Guardrails, gates and other protective barriers, in accordance with Section 62-651.

(e) Kiosks and open air cafes

Where a kiosk is provided, it shall occupy an area no greater than 150 square feet, including roofed areas. A kiosk may be freestanding or attached on only one side to a building wall. Any area occupied by a kiosk shall be excluded from the definition of #floor area#, and may only be occupied by news or magazine stands, food stands, flower stands, bicycle rental stands, information booths or #uses accessory# to permitted WD #uses#, as permitted by the applicable district #use# regulations or as modified by Section 62-29.

Open air cafes shall be permanently unenclosed except that they may have a temporary fabric roof. No kitchen equipment shall be installed within an open air cafe. Kitchen equipment may be contained in a kiosk adjoining the open air cafe.

Notwithstanding the provisions of Section 32-41 (Enclosure Within Buildings), outdoor eating services or #uses# occupying kiosks may serve customers on a #waterfront public access area# through open windows.

**62-62 (delete existing text)**

**General Design Requirements for Shore Public Walkways and Supplemental Public Access Areas**

The design requirements of this Section shall apply to #shore public walkways#, and #supplemental public access areas#, except as modified by Section 62-57 (Requirements for Supplemental Public Access Areas).

(a) Circulation and access

- (1) A #shore public walkway# shall provide a circulation path with a minimum clear width of 12 feet, except that in R3, R4, R5, C1, C2 and C3 Districts, and in C1 or C2 Districts mapped within R1 through R5 Districts, for #developments# comprised of #predominantly commercial# or #community facility uses#, the minimum clear width shall be 10 feet.

Such path shall be located within 10 feet of the #shoreline# for at least 20 percent of the length of such shoreline, and the remainder of the path may be located anywhere within the #shore public walkway# or #supplemental public access area#. Secondary paths, when provided, shall be at least six feet wide. When two circulation paths are parallel to each other, they shall be connected by other paths or accessible lawn at intervals not to exceed 200 feet. In order to facilitate the future connection of pedestrian circulation paths, where a #shore public walkway# is on a #zoning lot# that is adjacent to a #zoning lot# without a #shore public walkway#, the portion of the circulation path that terminates at the common #zoning lot line# shall be located within 30 feet of the #shoreline#.

- (2) A #supplemental public access area# shall provide at least one circulation path with a minimum clear width of six feet that provides access throughout the #supplemental public access area#. This requirement may be met by a circulation path of the #shore public walkway# that traverses the #supplemental public access area#.

(b) Seating

One linear foot of seating shall be provided for every 75 square feet of #shore public walkway# and #supplemental public access area#. Such seating may be located anywhere within such public access areas and shall comply with the standards of Section 62-652.

In addition, up to 25 percent of required seating may be located seaward of the #shore public walkway# and shall be subject to the provisions of Section 62-652, paragraph (h).

(c) Planting

(1) Planting areas

An area equal to at least 50 percent of the area of the #shore public walkway# and #supplemental public access area# shall be planted, except that in R3, R4, R5, C1, C2 and C3 Districts, and in C1 or C2 Districts mapped within R1 through R5 Districts, for #developments# comprised of #predominantly commercial# or #community facility uses#, such area shall be equal to at least 40 percent.

In addition, the following conditions shall apply:

- (i) Where a #supplemental public access area# is greater than 1,875 square feet, at least 25 percent of the required planting area of the #shore public walkway# and #supplemental public access area#, combined, shall be provided as lawn;
- (ii) Up to 15 percent of the required planting area may be located seaward of a #shore public walkway# and shall be measured in plan view and not along the planted slope; or
- (iii) When a dedicated bicycle path is provided within a #supplemental public access area#, a planting area with a width of at least five feet shall be provided between the bicycle path and any paved area for pedestrian use. For the purpose of calculating planting requirements, the area of the bicycle path may be deducted from the combined area of the #shore public walkway# or #supplemental public access area#.

Such planting areas in this paragraph (c), may be located anywhere within the #shore public walkway# or #supplemental public access area# and shall comply with the standards of Section 62-655.

(2) Screening buffer

- (i) A screening buffer shall be provided within the #shore public walkway# or the #supplemental public access area#, running along the entire upland boundary of such area where it abuts non-publicly accessible areas of the #zoning lot#, except as waived pursuant to paragraph (c)(2)(iii) of this Section. Any screening buffer provided pursuant to this Section may be used to meet the planting requirement of paragraph (c)(1) of this Section.
- (ii) The minimum width of the screening buffer shall be 10 feet. On shallow lots where the width of the #shore public walkway# may be reduced pursuant to Section 62-53, the width of the screening buffer may be reduced proportionally but shall not be less than four feet.
- (iii) No screening buffer shall be required:
- (a) adjacent to a private drive, a #street# or at the entrances to buildings; or
- (b) for a #commercial# or #community facility use# where at least 70 percent of the area of the building façade, within a height of 10 feet, located within a distance of 15 feet from the sidewalk or #waterfront public access area#, is glazed with windows, transoms or glazed portions of doors. Not less than 50 percent of the entire area of such #commercial# or #community facility use# shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.

(3) Trees and additional planting

(i) A minimum of one canopy tree shall be provided for every 2,000 square feet of #shore public walkway# and #supplemental public access area#. In no event may a #shore public walkway# have less than two canopy trees for every 100 feet of #shoreline#.

(ii) In addition to the trees required pursuant to paragraph (c)(3)(i) of this Section, for every 1,250 square feet of #shore public walkway# and #supplemental public access area#, one of the following must be provided: a canopy tree, an ornamental tree or a multi-stemmed equivalent, 60 square feet of planting beds or 110 square feet of accessible lawn.

Trees and additional planting areas may be located anywhere within the #shore public walkway# or #supplemental public access area# and shall comply with the standards of Section 62-655.

(4) Reduction in minimum required planting area

The minimum planting area, required by paragraph (c)(1) of this Section, may be reduced by 10 square feet for every linear foot of:

(4i) #shoreline# improved for boat launching or mooring or designed with architectural features to facilitate direct access to the water, such as steps or other forms of “get-downs,” except that rip-rap used as stabilized shore shall not qualify for a planting reduction; or

(2ii) WE #uses# with frontage adjoining, and having a public entrance on, the #shore public walkway# or #supplemental public access area#, provided that the screening buffer for such #shore public walkway# or #supplemental public access area# is waived pursuant to the conditions of paragraph (c)(2)(iii) of this Section.

However, where a #supplemental public access area# having an area of least 7,500 square feet containing a playground of at least 3,500 square feet in area and improved in accordance with the standards of the Department of Parks and Recreation is provided, the required minimum planting area may be reduced by one square foot for every five square feet of playground area. The playground area may be located anywhere within the #waterfront public access area# that is beyond 20 feet of the #shoreline#.

In no event shall the reduced planting area be less than 25 percent of the combined area of the #shore public walkway# and #supplemental public access area#.

(d) Bicycle parking

Bicycle racks sufficient to provide at least four bicycle parking spaces shall be provided within a #waterfront public access area#.

Furthermore, when the combined area of the #shore public walkway# and #supplemental public access area# is greater than 8,000 square feet, two additional bicycle parking spaces shall be provided for every additional 2,000 square feet of #shore public walkway# or #supplemental public access area#.

Bicycle racks shall be adjacent to a circulation path and at least 20 feet from the #shoreline#. Such bicycle racks may be located in public sidewalks adjacent to the #zoning lot#. All bicycle racks shall comply with the standards of Section 62-657.

(e) Trash receptacles

One trash receptacle shall be provided for every 4,000 square feet of #shore public walkway# and #supplemental public access area#, and all trash receptacles shall be located in visible and convenient locations. All trash receptacles shall comply with the standards of Section 62-658.

~~62-621~~~~Shore public walkways~~~~62-622~~~~Upland connections~~~~62-623~~~~Supplemental public access areas~~~~62-624 (moved to 62-71, 62-72, 62-73, revised)~~~~Maintenance and operation of waterfront public access areas~~~~62-625 (moved to 62-61(d), revised)~~~~Grading controls~~~~62-626 (moved to 62-611, revised)~~~~Permitted obstructions~~~~62-627 (moved to 62-61(e), revised)~~~~Vehicle and emergency access~~~~62-63~~~~Specific Design Requirements for Public Access on Piers and Floating Structures Prototypes~~~~62-65- 62-631~~~~Shore public walkway—Prototype I: Esplanade~~~~Design requirements for public access on piers~~

~~Public access areas on #piers# shall be improved in accordance with the provisions of this Section. The entire public access area on a #pier# shall be considered a pedestrian circulation zone.~~

~~The design requirements of this Section shall apply to #waterfront public access areas# on #piers#, pursuant to Section 62-54.~~

(a) Circulation and access

~~At least one circulation path having a minimum clear width of ten feet shall be provided throughout the public access area required on the #pier#. Within a transition zone, the aggregate clear width of circulation path shall be equal to 50 percent of the length of the intersection between two public access areas.~~

(b) Permitted obstructions

~~In addition to permitted obstructions permitted within pedestrian circulation zones pursuant to Section 62-626-62-611, #pier# public access areas may include one free-standing open or enclosed public pavilion, provided such structure does not exceed one #story#, a maximum height of is no taller than 30 feet or a maximum area of and has an area no larger than 1,600 square feet. At least 50 percent of the perimeter wall area on all sides, up to a height of 15 feet, shall consist of clear or lightly tinted transparent material glazed materials which may include show windows, glazed transoms, glazed portions of doors or latticework. Such structures shall be exempt from building spacing requirements on #piers# provided they maintain a spacing of at least 15 12 feet from other #buildings# and from any water edge of the #pier#, except that when a #pier# is 30 feet or less in width, a pavilion may abut one water edge.~~

(c) Seating

~~At least one linear foot of seating shall be required for every 100 square feet of #pier# public access area, subject to the provisions of paragraphs (a) through (d) of Section 62-652.~~

~~62-66 62-632~~~~Shore public walkway—Prototype II: Moderate intensity walkway~~~~Design requirements for public access on floating structures Public Access~~

The following design requirements of this Section shall apply to shore public walkways provided in conjunction with as-of-right development on floating structures, pursuant to Section 62-413 62-55.

(a) Circulation and access

The entire shore public walkway required pursuant to Section 62-413 shall be considered a pedestrian circulation zone. Within such zone, a circulation path shall be provided with a minimum clear width of ten feet. On shallow portions of zoning lots where the width of the shore public walkway may be reduced in accordance with Section 62-413 62-53, the minimum clear width of the path may be reduced to a minimum of six feet when the shore public walkway is less than 16 feet. The circulation path reduction shall be made to comply with the planting requirements of paragraph (b) of this Section

(b) Seating

At least one linear foot of seating is required for every 100 square feet of public access area, subject to the provisions of paragraphs (a) through (d) of Section 62-652.

(c) Planting and Screening

A minimum of 50 percent of the pedestrian circulation zone, excluding the required clear path, shall be planting area. A single row of shade trees shall be provided landward of the circulation path within the planting area of any portion of a pedestrian circulation zone having a width equal to or greater than 12 feet.

Any service areas located within the pedestrian circulation zone, such as that used for equipment storage or similar purposes, shall be screened from the circulation path in accordance with the standards for screening in Section 62-675 62-655 (Planting and trees).

62-633

Shore public walkway — Prototype III: Low-intensity walkway

62-634

Shore public walkway — Prototype IV: Open recreation walkway

62-635

Supplemental public access area — Prototype I: Waterview plaza

62-636

Supplemental public access area — Prototype II: Waterview park

62-637

Supplemental public access area — Prototype III: Waterview sitting area

62-64

Design Requirements for Upland Connections and Visual Corridors

(delete existing text)

Upland connections shall be improved in accordance with the provisions of this Section.

(a) Circulation and access

(1) For Type 1 upland connections provided in accordance with the provisions of paragraph (a) of Section 62-561, there shall be at least one circulation path linking an open street, public park

or other public place with a shore public walkway. Such path shall have a minimum clear width of twelve feet. Any secondary paths shall have a minimum clear width of six feet.

(2) For Type 2 upland connections provided in accordance with the provisions of paragraph (b) of Section 62-561, each pedestrian walkway shall have a circulation path with a minimum clear width of eight feet linking an open street, public park or other public place with a shore public walkway. However, when a turn-around is provided, the entire required area shall be provided as a circulation path.

(3) For "transition areas," a circulation path with a width of at least twelve feet shall connect each circulation path of the Type 2 upland connection with a circulation path of a shore public walkway, supplemental public access area or Type 1 upland connection, whichever is applicable.

(b) Paving

(1) For Type 1 upland connections, at least 40 percent but not more than 65 percent of the "entry area" shall be paved. Such paving shall include a five foot wide area along at least 70 percent of the frontage adjoining a public sidewalk.

(2) Where any upland connection is interrupted by a private driveway, the full width of the required upland connection shall traverse the roadbed without a drop in level, and paved with materials distinct from the roadbed. Such portion of the upland connection shall not count towards fulfilling a minimum required amount of waterfront public access area.

In addition, for Type 2 upland connections, the area of the roadbed between both circulation paths, within which lines perpendicular to the upland connection traversing the roadbed can be drawn or the portion of the roadbed within a vehicular turn-around, shall be raised to be flush with the level of such adjoining upland connections (see Illustration).

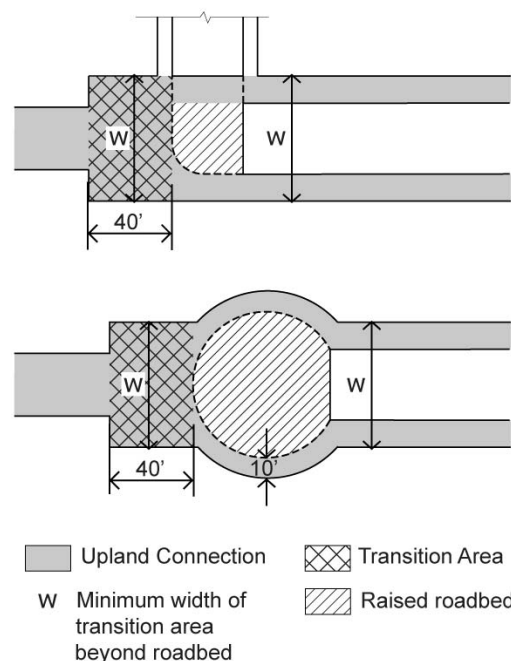


ILLUSTRATION: TYPE 2 UPLAND CONNECTION

(3) The roadbed paving material of a private driveway leading to a vehicular turn-around may be extended into the turn-around provided the area of the turn-around paved with such material is not wider than the roadbed leading to the turn-around. The remaining portions of the turn-around shall be paved with distinct materials to facilitate pedestrian usage. In addition, the level of the area within the turnaround shall be raised to be flush with the level of adjoining circulation paths.

(c) Planting

(1) For Type 1 upland connections, at least forty percent of the area of the upland connection shall be planted in accordance with the provisions set forth in Section 62-655 (Planting and trees).

In addition, the following rules shall apply:

(i) where such #upland connections# do not abut open parking lots or private driveways, six caliper inches of ornamental trees or their equivalent in multi-stemmed plants shall be required for every 100 linear feet of #upland connection#.

(ii) where such #upland connections# abut an open parking lot, screening shall be provided within the #upland connection# along the curb of such parking lot in accordance with Section 37-921 (Perimeter landscaping).

(iii) where such #upland connections# abut a private driveway, a continuous tree pit shall be provided within the #upland connection# along the curb of the driveway. Such tree pit shall meet the minimum planting requirements set forth in Section 62-655, and in addition, shall be planted with one tree for every 25 feet of private driveway frontage.

(iv) where such #upland connections# do not coincide with a #visual corridor#, at least 30 percent of the required open area along the length of the #upland connection# shall be planted, and the requirement of Section 62-513 (Permitted obstructions in visual corridors) shall apply within such open areas.

(2) For Type 2 #upland connections#, a continuous tree pit shall be provided within the #upland connection# along the curb of the private driveway. Such tree pit shall meet the minimum planting requirements set forth in Section 62-655, and in addition, shall be planted with one tree for every 25 feet of private driveway frontage. Portions of the continuous tree pit may be paved with permeable paving such as Belgian block or similar unit pavers in order to accommodate any required amenities, such as benches or bike racks, or other permitted obstructions in accordance with the provisions of Section 62-611. However, no continuous tree pit shall be required where an #upland connection# abuts a portion of a roadbed that is required to be raised pursuant to paragraphs (b)(2) or (b)(3) of this Section.

(3) For “transition areas”, at least forty percent of such area shall be planted. In addition, a minimum of two canopy trees or their equivalent in caliper inches of ornamental trees or multi-stemmed plants are required.

#### (d) Seating

At least 12 linear feet of seating shall be provided for every 100 linear feet of #upland connection#, excluding the length of any “entry” or “transition areas” and the first 50 feet of a Type II #upland connection#. Such excluded areas shall have at least 24 linear feet of seating.

#### (e) Trash receptacles

One trash receptacle shall be provided within 15 feet of a #street#, #public park# or other public place and one receptacle shall be provided where the #upland connection# adjoins a #shore public walkway# or #supplemental public access area#, pursuant to Section 62-658

### 62-65

#### Public Access Design Reference Standards

The standards of this Section, inclusive, shall be applicable to all #waterfront public access areas# and #visual corridors#.

No hollow plastic material, such as PVC (polyvinyl chloride) or similar material shall be permitted in guardrails, fences, seating, trash receptacles or other similar furniture within a #waterfront public access area#. However, high-density polyethylene shall be permitted.

### 62-651

#### Guardrails, gates and other protective barriers

*(delete existing text)*

The requirements of this Section shall not supersede other applicable government regulations or safety codes.

#### (a) Guardrails

For the purposes of this paragraph, (a), the term "guardrail" shall refer only to fencing or similar structures provided along a bulkhead, stabilized shore or the water edges of a #pier# or #platform#.

When a guardrail is provided, it shall have a maximum height of 42 inches measured from the adjoining grade level, and shall be at least 70 percent open. Guardrails may be mounted on a solid curb not higher than six inches.

A guardrail may be substituted for a wall, pursuant to paragraph (c)(1)(iii) of this Section.

#### (b) Bollards

(1) Bollards shall be limited to the following locations:

(i) along the bulkhead, stabilized shore or the water edges of a #pier# or #platform#;

(ii) along a #zoning lot line# adjacent to, and limiting access from an upland #street#; and

(iii) along the boundaries of a roadway within an #upland connection#.

(2) Bollards shall not exceed 30 inches in height and shall be between six and fifteen inches in width. The top of bollards shall not consist of any sharp edges. The minimum clearance between two bollards shall be five feet.

#### (c) Fences and walls

(1) Fences and walls, when provided, shall be limited to the following locations:

(i) along the boundary of a #waterfront public access area# and an adjoining private area on the #zoning lot#;

(ii) around the perimeter of a playground, tot-lot or dog-run;

(iii) adjoining WD #uses#;

(iv) within a #visual corridor#; and

(v) along any grade level change of 30 inches or greater.

(2) Fences shall have a maximum height of 36 inches measured from the adjoining grade level, and be at least 70 percent open. Fences may be mounted on a solid curb not higher than six inches.

(3) Walls shall not exceed a height of 21 inches, and may be fully opaque.

(4) Chain link fencing or barbed or razor wire shall not be permitted.

#### (d) Gates

Gates attached to fences and walls that limit physical access to #waterfront public access areas# from #streets#, #public parks# or other public ways, or from adjacent #waterfront public access areas# on adjoining #zoning lots#, shall comply with the provisions of this paragraph, (d). Such gates shall be permitted only at the boundaries of #waterfront public access areas# and such adjacent publicly accessible areas, except that in Type I #upland connections# gates may be located at the seaward boundary of the “entry area”. Gates shall not intrude into any planting area. Gates may be closed only pursuant to Section 62-71 (Operational requirements).

The maximum height of a gate shall be four feet above the adjoining grade level. Gates shall be no more than 30 percent opaque.

When opened for access, 70 percent of the total width, in aggregate, of the #waterfront public access area# shall be free of obstructions associated with the gate, and there shall be a minimum clear distance of at least 16 feet between any two obstructions of the gate.

In addition, in its open position, the gate and its support structures shall not obstruct:

- (1) any circulation path;
- (2) 25 percent of the width of the "entry area" of an #upland connection# along each side of the centerline of such "entry area"; and
- (3) at least 50 percent of the width of the #shore public walkway# closest to the #shoreline#.

#### ~~62-672~~ 62-652

#### Seating

All required seating shall comply with the following standards:

##### (a) Seating with backs

At least 50 percent of the required seating shall have backs, and at least 50 percent of such seating shall face in the general direction of the water. Seat backs shall be at least 14 inches high. Walls located adjacent to a seating surface shall not count as seat backs. All seat backs must either be contoured in form for comfort or shall be reclined from the vertical between 10 to 15 degrees.

##### (a-b) Depth

~~Seating without backs shall have a minimum depth of 16 inches. Seating with backs shall comprise at least 50 percent (50%) of the required seating. Such seating shall have a minimum depth of 14 inches, a maximum depth of 22 inches and backs shall be at least 12 inches high. Seating 30 inches or more in depth and accessible from both sides may be credited as double seating.~~

Seating with or without backs shall have a depth of not less than 18 inches, and for seating with backs, such depth shall not be greater than 20 inches. Seating with a depth of at least 36 inches, and accessible from both sides, may be credited as double seating. When seating is provided on a planter ledge, such ledge must have a minimum depth of 22 inches.

##### (b-c) Height

At least 75 percent (75%) of the required seating shall have a height not less than 16 inches nor greater than 20 inches above the level of the adjacent walking surface grade. Seating higher than 36 inches or lower than 12 inches shall not qualify toward the seating requirements. Seating may be mounted on a solid curb not higher than six inches.

##### (d) Clearance

Seating shall be ~~set back~~ located a minimum of 22 inches ~~three feet~~ from any circulation path or permitted obstruction along ~~it's the~~ accessible side of such seating, except that seating without backs may be as close to a guardrail as 12 inches.

##### (e) ~~Alternative~~ Types of seating

~~Tops of walls that are flat and smooth with at least one inch radius rounded edges, including those bounding planting beds, fountains and pools shall qualify as seating, provided they comply with the standards of this Section. Moveable chairs, excluding those in open air cafes, may be credited as 18 inches of linear seating per chair; however, not more than 50 percent (50%) of required linear seating may be in moveable seats. No steps, stairs or seating in open air cafes shall qualify towards seating requirements.~~

In #shore public walkways# and #supplemental public access areas#, at least two of the following types of seating are required: moveable seating, fixed individual seats, fixed benches with backs, fixed benches without backs, lounging chairs and design feature seating.

##### (i) Design feature seating

Planter ledges, seating walls, and seating steps may be provided, and shall be limited to 25 percent of the required seating. Walls and planter ledges shall be flat and smooth with at least one inch radius rounded edges.

##### (ii) Moveable seating

Moveable chairs, excluding those in open air cafes, may be credited as 18 inches of linear seating per chair; however, not more than 50 percent of required linear seating may be in moveable chairs. Moveable chairs may be placed in storage outside of the required hours of operation, pursuant to Section 62-71, paragraph (a). All moveable chairs must have backs. Moveable chairs shall not be chained, fixed, or otherwise secured while the #waterfront public access area# is open to the public.

##### (iii) Seating steps

Seating steps shall not include any steps intended for circulation and must have a height not less than 12 inches nor greater than 30 inches and a depth not less than 18 inches.

##### (iv) Lounge chairs

Lounge chairs shall allow for a reclined position supporting the back as well as the legs. Lounge chairs may be credited as 36 inches of linear seating per chair.

##### (f) Social seating and tables

At least 25 percent of required seating shall be social seating, consisting of seats that are placed in close proximity and at angles to one another or in facing configurations that facilitate social interaction. A minimum of two square feet of tables shall be required for every three linear feet of social seating. However, any requirement for tables that, in total, is less than 10 square feet shall be waived, and no more than 150 square feet of tables shall be required in any site.

##### (g) Shaded seating

At least 20 percent of required seating shall be shaded. Seating shall be considered shaded if it is located under a canopy tree or shade structure, or on the eastern side and within 45 feet of the trunk of a canopy tree or of a shade structure.

##### (h) Seaward seating

Up to 25 percent of required seating may be located seaward of the #shore public walkway# provided it is designed as:

- (i) a generally smooth and flat surface within a stabilized natural #shoreline#, in the form of rock, stone, wood or other solid material that measures at least 15 inches in width and depth and is between 12 and 30 inches high measured from the adjoining accessible surface; or
- (ii) steps, with a depth and height between 12 and 30 inches, that facilitate access to the water.

Seaward seating shall not be subject to the provisions of paragraphs (a) through (g) of this Section.

Seating in open air cafes or stairs shall not qualify towards seating requirements. All seating located within a planting area shall be on permeable pavement and secured for stability.

#### ~~62-673~~ 62-653

#### Lighting

All waterfront public access areas shall provide lighting in accordance with the following requirements:

##### (a) Lighting fixtures

Light posts shall be spaced at a maximum distance of 40 feet. The light center of the fixture shall be mounted at a minimum height of 12 feet and a

maximum height of 15 feet above the adjacent circulation path. Lighting shall be located within five feet of a circulation path.

(b) ~~Light source and illumination level~~

~~Luminaires shall have type III photometric distribution as described in the Illuminating Engineering Society's (IES) Handbook. Glare shall be controlled to a semi-cutoff standard (not more than five percent of peak footcandle intensity radiating above 90 degrees and 20 percent (20%) of peak intensity above 80 degrees). The luminaire shall be equipped with lamps with color temperature range of 3000-2000 K to 4100-4000 K with a minimum color rendering index of 65. The performance standard for illumination shall be a minimum of 0.5 horizontal footcandles along both the paved portion of the walkway and seating areas. The average illumination to minimum footcandle uniformity ratio shall be no greater than 4.0 to 1.0 within such paved and seating areas. All lenses and globes shall be polycarbonate or equivalent.~~

~~An average maintained level of illumination of not less than one horizontal foot candle (lumens per foot) throughout all walkable areas, and a minimum level of illumination of not less than 0.2 horizontal foot candles (lumens per foot) throughout all other areas, shall be required. Such level of illumination shall be maintained from one-half hour before sunset to one-half hour after sunrise.~~

~~The average illumination to minimum foot candle uniformity ratio shall be no greater than 10:1 within a #waterfront public access area#.~~

~~Glare shall be controlled to a semi-cutoff standard (not more than five percent of peak foot candle intensity radiating above 90 degrees and 20 percent of peak intensity above 80 degrees). The luminaire shall be equipped with lamps with a color temperature range of 3000 K to 4100 K with a minimum color rendering index of 65.~~

~~All lenses and globes shall be polycarbonate or equivalent.~~

~~All lighting sources that illuminate a #waterfront public access area# and are mounted on or located within #buildings# adjacent to the #waterfront public access area# shall be shielded from direct view. In addition, all lighting within the #waterfront public access area# shall be shielded to minimize any adverse effect on surrounding #residential buildings#.~~

**62-674 62-654**

**Signage**

*(delete existing text)*

The provisions of this Section shall apply to signs required in #waterfront public access areas#. All such signs shall be located in directly visible locations, without any obstruction at any time. Such signs shall be fully opaque, non reflective and constructed of permanent, highly durable materials, such as metal or stone. All lettering shall be in a clear, sans-serif, non-narrow font such as Arial, Helvetica, or Verdana, solid in color with a minimum height of one-quarter inch, unless otherwise specified in this Section, and shall highly contrast with the background color.

Drawings documenting the size, format, and orientation of all required signs shall be included in the application for certification, pursuant to Section 62-80. Such drawings shall include detailed information about dimensions of the sign, lettering size, color and materials.

(a) Entry signage

All #waterfront public access areas# shall contain an entry sign mounted on a permanent structure. Such sign shall be located within five feet of the boundary of the entrance from a #street#, #public park# or other public way. Required signage shall contain:

- (1) the New York City waterfront symbol, 12 inches square in dimension, as provided in the "The New York Waterfront Symbol Standards and Specifications" (published by the Department of City Planning, April 1989, and as modified from time to time);
- (2) lettering at least one-and one-half inches in height, stating "OPEN TO PUBLIC" in bold type;
- (3) lettering at least one-half inch in height stating the approved hours of operation as required pursuant to Section 62-71 (Operational Requirements), paragraph (a);

(4) lettering at least one-half inch stating "Do not enter outside of hours of operation";

(5) the International Symbol of Access for persons with physical disabilities, at least three inches square, or the statement: "This public access area is accessible to persons with physical disabilities";

(6) the address of the property where the #waterfront public access area# is located;

(7) the name of the current owner and the name, phone number and email address of the person designated to maintain the #waterfront public access area#;

(8) the statement: "For complaints or questions: call 311."

(9) the statement: "For more information go to <http://nyc.gov/planning>," and

(10) rules of conduct as specified in Section 62-71, paragraph (b).

Information in paragraphs (a)(1) and (a)(2) may be inscribed in pavement or on any permitted appropriate amenity, such as seating wall or sculpture.

All information required in this paragraph, (a), shall be included on signs with a maximum dimension in one direction of 16 inches. The maximum height of a sign above the adjoining grade shall be three feet for a horizontal sign and five feet for a vertical sign. The bottom of all signs shall be at least eighteen inches above adjoining grade, except for signs angled 45 degrees or less as measured from adjacent grade. However, the waterfront symbol required pursuant to paragraph (a)(1) need not be included in such signage if such symbol is inscribed nearby in pavement or any appropriate amenity.

(b) Signage at #zoning lot# line

A sign shall be required to be located within five feet of any #zoning lot line# adjacent to another #zoning lot# within a #shore public walkway# and at a distance no greater than five feet from the required circulation path. All information required in paragraph (a) of this Section shall be included on signs with a maximum dimension in one direction of 16 inches. The maximum height of a sign above adjoining grade shall be three feet. The bottom of all signs shall be at least 18 inches above adjoining grade, except for signs angled 45 degrees or less, as measured from adjacent grade. However, the waterfront symbol required pursuant to paragraph (a)(1) of this Section need not be included in such signage if such symbol is inscribed nearby in pavement or any appropriate amenity, such as seating wall or sculpture.

However, the waterfront symbol required pursuant to paragraph (a)(1) shall be no larger than four inches square, or 12 inches square if inscribed in pavement or any appropriate amenity, and the information required in paragraph (a)(2) of this Section shall be one inch high.

The information required in paragraphs (a)(1) and (a)(2) may be inscribed in pavement or on any permitted appropriate amenity.

(c) Other signage

Seating areas within #waterfront public access areas# allowed pursuant to paragraph (c)(2)(iii) of Section 62-62 (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas) shall be identified by a sign with the words "SEATING OPEN TO PUBLIC" in lettering at least one inch high. Such sign shall be clearly visible from the #waterfront public access area#. In addition, such sign shall be no greater than sixty square inches, no higher than eighteen inches above adjacent grade, and angled for visibility. The required sign may be freestanding or attached to a permitted amenity within the #waterfront public access area#.

No #advertising signs# may be located within a #waterfront public access area#.

**62-675 62-655**

**Planting and trees**

*(delete existing text)*

Within #waterfront public access areas# and parking areas where planting or screening is required, the design standards of this Section shall apply

A detailed landscape plan prepared by a registered landscape architect shall be submitted to the Department of Parks and Recreation prior to seeking certification by the Chair of the City Planning Commission, pursuant to the requirements of Section 62-80. Such plans shall include plants suited for waterfront conditions and include a diversity of species with emphasis on native plants, salt tolerance and the facilitation of sustainable wildlife habitats, where appropriate. No species listed on quarantine or as a host species for any disease listed by the Department of Parks and Recreation at the time of application shall be included.

All landscaped areas shall contain a built-in irrigation system or contain hose bibs within 100 feet of all planting areas.

(a) Planting areas

Wherever a minimum percentage of planting area is specified for a #waterfront public access area#, such requirements shall be met only through the provisions of the types of planting areas listed in paragraphs (a)(1) through (a)(7) of this Section. A curb with a maximum height of six inches is permitted along the perimeter of any planting area. Any edging higher than six inches above adjacent grade shall be considered a retaining wall. Retaining walls shall not exceed 60 percent of the perimeter of a planting area or a maximum height of 18 inches measured from the adjacent grade. At least one continuous length, equal to 40 percent of the planting area's perimeter, shall have a grade level within six inches of the adjacent grade level. Where not specifically indicated, the minimum planting standard for required planting areas shall be turfgrass, other natural grasses or groundcover. All planting areas shall be located on undisturbed subsoil or clean fill.

(1) Single tree pits

A single tree pit shall have a minimum dimension of five feet with a minimum area of 30 square feet and a minimum depth of three feet, six inches. Only tree pits planted with ground cover shall count towards meeting a minimum planting area requirement.

(2) Continuous tree pits

A continuous tree pit is a planting area containing two or more trees. Continuous tree pits shall have a minimum width of five feet and a minimum depth of 3 feet, 6 inches, and a length as required to meet a minimum of five feet from the trunk of the tree to the end of the tree pit.

(3) Planting beds

Planting beds for turf grass or groundcovers shall have minimum dimensions of two feet in any direction and a minimum depth of two feet. Planting beds for shrubs shall have minimum dimensions of three feet by three feet for each shrub and a minimum depth of 2 feet, 6 inches. Planting beds containing trees shall have a minimum dimension of five feet and a minimum area of 30 square feet for each tree, with a minimum depth of 3 feet, 6 inches. Trees, shrubs or groundcovers may be combined in a single planting bed only if such bed meets the minimum depth required for the largest plant.

Retaining walls are permitted along the perimeter of a planting bed in accordance with the regulations for planting areas in paragraph (a) of this Section.

(4) Raised planting beds

A "raised planting bed" is a planting area with retaining walls along more than 60 percent of its perimeter or a height along any portion greater than 18 inches. A raised planting bed shall comply with the dimensional standards for a planting bed except that the height from the adjacent grade to the top of the retaining wall of a raised planting bed shall be a maximum of 36 inches.

(5) Berms

A "berm" is a planting area with sloped grade stabilized primarily by plant materials rather than retaining walls or other similar built structures. A berm shall comply with the dimensional

standards for a planting bed except that the height from the adjacent grade to the top of the berm shall not exceed 60 inches.

(6) Lawns

A "lawn" is an area planted with turfgrass having a minimum soil depth of 2 feet, 6 inches. Along at least 60 percent of the perimeter, a lawn shall have a grade level within six inches of the adjacent grade providing unobstructed pedestrian access. Any required lawn shall have a minimum area of 500 square feet and no dimension less than 18 feet.

(7) Screening

Screening is intended to create a landscaped buffer between the #waterfront public access areas# and adjoining non-public #uses# to protect the privacy or minimize the visual impact of blank walls, equipment, loading and parking areas or similar conditions.

(i) Screening buffers

Screening buffers required pursuant to paragraph (c)(2) of Section 62-62 (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas) shall consist of densely planted shrubs or multi-stemmed screening plants, with at least 50 percent being evergreen species. Shrubs shall have a height of at least four feet at the time of planting. The requirements of this paragraph, (a)(7)(i), may also be satisfied by the requirements of paragraph (a)(7)(ii) of this Section.

(ii) Blank walls and service areas

Blank walls higher than four feet measured from an adjacent grade level and service areas anywhere within a #waterfront public access area# shall be screened with any combination of evergreen trees, vines or espaliered trees or shrubs, and an architectural treatment such as a pergola, stone rustication, grills or sculptural features.

(iii) Parking garage screening

Open parking areas on any #zoning lot# fronting on an #upland connection# or #street# on any #waterfront block#, notwithstanding the #use# on such lot, shall require screening pursuant to Section 37-921 (Perimeter landscaping). Screening required pursuant to Section 62-453 shall consist of a planting strip at least four feet wide. Plants shall be at least four feet high at the time of planting and 50 percent of them shall be evergreen shrubs.

All required screening may be interrupted by vehicular or pedestrian entrances.

(b) Trees

(1) Tree caliper

At time of planting, canopy trees shall be a minimum of three inches caliper and ornamental trees shall be a minimum of two inches caliper.

(2) Trees in single tree pits

One of the procedures in this paragraph, (b)(2), shall be employed to protect trees planted at grade:

(i) Granite or cast concrete block pavers with a minimum four inch depth shall be installed in accordance with New York City Department of Parks and Recreation (DPR) standards for #street# trees;

(ii) A grate shall be installed over the root zone, supported at its edges and set flush with the adjacent pavement for pedestrian safety, in accordance with DPR standards for #street# trees for grate size; or

- (iii) The root zone shall be surrounded with barrier hedge planting.

**62-676 62-656**

**Paving**

Paving in #waterfront public access areas# shall comply with the following:

- (a) Paving shall consist of unit pavers or wood decking except as follows:
- (1) Seating areas which are outside of the minimum clear path may also be paved with Belgian block or poured concrete.
  - (2) In #shore public walkways# (Prototype III: Low intensity walkway and Prototype IV: Open recreation walkway), crushed stone, woodchips or asphalt may be used in lieu of unit pavers or wood decking.
  - (3) Designated bike paths, when provided, shall be paved with asphalt or a similar smooth and elastic, monolithic surfacing material.

Unit pavers shall be made of pressed terrazzo concrete with visible aggregate content, asphalt, brick or stone having a smooth but slip resistant surface. Unit pavers shall be bounded by poured or precast concrete or stone edging of a width not to exceed two feet, or a curb or retaining wall.

Locational requirements

(1) Within required circulation paths

All paving material for a required circulation path shall be permanent, durable, handicapped accessible, and shall consist of one or a combination of the following:

- (i) Unit pavers constituted of stone, concrete, granite, asphalt or a mix of these materials with other aggregates;
- (ii) Concrete, prefabricated, poured or permeable;
- (iii) Wood planks for boardwalk or decking, except that tropical hardwood shall not be permitted;
- (iv) Solid plastic, such as “plastic lumber,” high density polyethylene, wood composite plastic or fiber-reinforced plastic.

(2) Other than within required circulation paths

In addition to the permitted paving materials of paragraph (a)(1) of this Section, the following materials shall be permitted anywhere in a #waterfront public access area#:

- (i) Blocks such as Belgian blocks, cobble stones, concrete cobbles, or Eurocobble;
- (ii) Gravel, loose, installed over a solid surface or glued with resin;
- (iii) Wood chips or other similar material;
- (iv) Metal grating, limited to locations that require drainage and for #platforms#;
- (v) Asphalt, impermeable or porous, which may be imprinted with thermoplastic patterns.

(3) Special regulations for “Type 2” #upland connections#

Paving for driveways and pedestrian paths shall be subject to the standards of the New York City Department of Transportation for roadbeds and sidewalks.

(b) Dimensional requirements

- (1) All unit pavers shall have a minimum thickness dimension of two inches for pedestrian use and three inches for vehicular use and shall not exceed a maximum of four square feet in area.
- (2) Wood planks or plastic lumber for boardwalk or decking shall be a minimum of three inches thick (nominal dimension) The direction of planks shall not be parallel to the direction of traffic.
- (3) Concrete slabs, other than in #upland connections#, shall be a maximum of two feet in any one dimension.

All the above materials may be installed to facilitate storm water management appropriate for specific site conditions.

**62-657**

**Bicycle racks**

p

Each bicycle rack shall allow for the bicycle frame and one wheel to be locked to the rack. If bicycles can be locked to each side of the rack, each side may be counted as a required space. Thirty inches of maneuverable space shall be provided between parallel bicycle racks and an eight foot wide aisle shall be provided between bicycle rack areas.

**62-658**

**Trash receptacles**

Trash receptacles shall be placed within 50 feet of a seating area, have a minimum capacity of 25 gallons and have either top openings that measure at least 12 inches wide or side openings that inscribe a rectangle measuring at least 12 inches wide and six inches high. Trash receptacles shall be able to use standard bags used to collect trash.

**62-624 62-70**

**Maintenance and eOperation of Requirements for wWaterfront pPublic aAccess aAreas**

**62-71 (62-624(a), modified)**

**Operational requirements**

(a) Hours of operation

All #waterfront public access areas# shall be open to the public at the times indicated in the table in this Section, except when required to be closed for repairs, and for no more than one day each year in order to preserve the private ownership of such area, as set forth in the maintenance and operation agreement required pursuant to Section 62-74.

HOURS OF OPERATION FOR WATERFRONT PUBLIC ACCESS AREAS

Districts	April 15 to October 31	November 1 to April 14



#Predominantly# community facility #developments# in:

<u>R3 R4 R5</u>	<u>Dawn to dusk*</u>	<u>Dawn to dusk*</u>
<u>C1 or C2 in R3 thru R5</u>		
<u>C3 C4-1 C8</u>		
<u>M1 M2 M3</u>		

<u>#Predominantly# commercial #developments# in all districts</u>	<u>Dawn to dusk or business closing, whichever is later**</u>	<u>Dawn to dusk or business closing, whichever is later**</u>
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<u>R6 R7 R8 R9 R10</u>	<u>6 A.M. to 10:00 P.M.</u>	<u>7 A.M. to 8:00 P.M.</u>
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\* Dawn shall be defined as one half hour before sunrise, and dusk shall be defined as one half hour after sunset.

\*\* #Waterfront public access areas# in #commercial developments# shall not be required to be open to the public beyond required hours of operation for #predominantly residential developments#.

(b) Rules of conduct

Rules of conduct for the #waterfront public access area# shall be established with the Department of Parks and Recreation and set forth in the maintenance and operation agreement as required pursuant to Section 62-74 (Requirements for Recordation). Such rules of conduct shall not prohibit typical promenade activities consistent with public enjoyment of the waterfront, such as walking, jogging, sitting or reclining, gathering in small groups, or consumption of food or non-alcoholic beverages.

**62-72** (62-624(b)&(c) modified)

**Performance and Maintenance Requirements**

(ba) Performance and maintenance

(1) The property owner shall be responsible for the completion and maintenance of all required #waterfront public access areas# on the #zoning lot#. No certificate of occupancy shall be issued until all required #waterfront public access area# improvements are completed except as otherwise provided in a phasing plan pursuant to Sections 62-811 (Waterfront public access and visual corridors) or ~~62-722~~ 62-822 (Modification of waterfront public access area and visual corridor requirements).

(2) To ensure the maintenance of the #waterfront public access areas#, prior to obtaining any certificate of occupancy, the property owner shall post security, in the form of a maintenance bond, letter of credit or other security acceptable to the Department of Parks and Recreation (DPR), with the DPR in an amount certified by a registered architect or landscape architect to be sufficient to cover one hundred and twenty-five percent (~~125%~~) of the cost of maintaining the #waterfront public access areas# for a twelve (~~12~~) month period following ~~the~~ final completion of ~~such~~ #waterfront public access areas#. The security shall be replaced every five years with a new security in an amount sufficient to cover one hundred and twenty five percent (~~125%~~) of the current annual cost of maintaining the #waterfront public access areas#, as certified by a registered architect or landscape architect. The security shall be in effect for the life of the #development#.

(eb) Maintenance and liability

Any declaration by the owner, its successor or assigns, or agreement between the owner, its successor or assigns, and ~~the City of New York City,~~ provided in accordance with 62-74 (Requirements for Recordation) regarding the maintenance and operation of the #shore public walkway#, public access areas on #piers# as established in Section 62-412, public access areas for #floating structures# as established in Section 62-413, and #supplemental public access areas#, a required #waterfront public access area# as established in Section 62-52 (Applicability of Waterfront Public Access Area Requirements), shall provide that:

- (1) the owner, its successor or assigns, will construct and be responsible for ordinary maintenance and repair of all such areas;
- (2) the City will indemnify and defend the owner, its successor or assigns, for judgments resulting from litigation of claims of personal injury on such areas in accordance with reasonable provisions and procedures in the declaration and the maintenance and operation agreement, provided that the owner, its successor or assigns, ~~have~~ has fully complied with the design and maintenance ~~obligations requirements as~~ set forth in this Resolution and the maintenance and operation agreement; and
- (3) in the event such areas are destroyed or substantially damaged as a result of flood, storm, fire or other acts of God, reconstruction shall be the responsibility of the City, provided that such destruction or damage is not the result of the negligence of the owner, or of the owner's failure to construct or maintain such areas in accordance with the provisions of this Resolution and the maintenance and operation agreement.

**62-73** (Prev. 62-624(d), modified)

**Request to ~~Transfer Title to e~~Certain Waterfront ~~p~~Public ~~a~~Access ~~a~~Areas**

*(delete existing text)*

(a) The owner of a #zoning lot# on a #waterfront block# may, at the owner's option, and prior to commencement of design and construction of #waterfront public access areas#, make a request directed to the Office of the Mayor (Request) to transfer to the City of New York its fee simple absolute interest, free and clear of any encumbrances that are not deemed acceptable by the City, in the #waterfront public access area# on such #zoning lot#.

(1) The City may accept the Request, provided that transfer will be made in a manner acceptable to the Chairperson of the City Planning Commission and the Commissioner of Parks and Recreation, who may specify conditions for transfer including, without limitation, establishment by the owner of an account for the funding of ordinary maintenance of the #waterfront public access area# and a capital reserve or funding mechanism for future capital repair, and adequate guarantees of access to the #waterfront public access area# and, provided further, that transfer is made pursuant to such instruments, which shall be a condition of certification pursuant to Section 62-811 (Waterfront public access and visual corridors), paragraphs (b) and (c), as are necessary for implementation. Where the Request is for transfer of a phase of the #waterfront public access area# pursuant to a phased implementation of required public access areas certified by the Chairperson pursuant to Section 62-811 or authorized by the City Planning Commission pursuant to Section 62-822, the City shall consider, in determining whether to accept such Request, such factors as the size, location and access for purposes of maintenance, repair and reconstruction, of the phase which is the subject of the Request, and may require as a condition of acceptance that the owner make binding commitments to the transfer of subsequent phases.

(2) The Department of Parks and Recreation (DPR) shall review and approve the design and construction specifications for the #waterfront public access areas# proposed for transfer, and transfer of such areas shall be made prior to the issuance of any temporary or permanent Certificate of Occupancy for any part of the #development# for which such areas are required to be constructed, upon determination by the DPR that construction of such areas is complete, as required pursuant to Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) and 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS), and is in accordance with the previously approved design and construction specifications, except that signage required pursuant to Section 62-654 may be replaced by DPR signage.

(3) The provisions of 62-72 (Performance and Maintenance Requirements), paragraphs (a)(2) and (b), shall not apply to any #waterfront public access area# transferred pursuant to this Section.

In the event of a transfer under this paragraph, (a), the #bulk# and parking computations for the #zoning lot# shall include the transferred property. Such transfer shall not be deemed to have created a #non-compliance#.

(b) For parcels identified in Waterfront Access Plan BK-1, the owners of two or more parcels may, either for purposes of certification pursuant to Section 62-811 or at any time thereafter, submit an alternate plan to the Chairperson for the joint maintenance and operation of waterfront public access areas on such parcels, through an association or other entity established for this purpose or by other method. Such plan may include, in addition to provisions for maintenance and operation, alternate provisions with respect to security, liability and any other matters set forth in Section 62-72 (Performance and Maintenance Requirements), as well as special provisions for reporting and monitoring of compliance with obligations for maintenance and operation of the waterfront public access areas. Such plan and any instruments as are necessary for its implementation may be approved by the Chairperson and the Commissioner of Parks and Recreation upon a determination that:

- (1) implementation of the plan would enhance maintenance and operation of the waterfront public access areas consistent with the purposes of this Chapter; and
- (2) participation in the plan is available to owners of contiguous parcels identified in Waterfront Access Plan BK-1 on an equal basis.

#### ~~62-14~~ ~~62-74~~

##### Requirements for Recordation

All required visual corridors, shore public walkways, supplemental public access areas, pier or floating structure public access areas and upland connections, and waterfront public access areas other than those provided in parks developed pursuant to Section 62-416 62-59 (Special Regulations for Zoning Lots That Include Parks), once certified in accordance with the provisions of Section 62-711 62-811 (Waterfront public access and visual corridors), paragraphs (b) or (c), shall be duly recorded in the form of a signed declaration of restrictions, including a maintenance and operation agreement with the Department of Parks and Recreation when a waterfront public access area is provided, indexed against the property, binding the owners, successors and assigns to provide visual corridors and to construct and maintain the shore public walkways, supplemental public access areas, pier or floating structure public access areas and upland connections, waterfront public access areas, except as provided in the provisions of Section 62-624 62-70, inclusive, and provide public access thereto in accordance with the plans certified by the Chairperson of the City Planning Commission. Such declaration or maintenance and operation agreement shall require that a bond be posted that would ensure that the waterfront public access areas are maintained in accordance with the declaration or maintenance and operation agreement and are closed only at authorized times, and shall set forth rules of conduct consistent with the provisions of paragraph (b) of Section 62-71. The filing of such declaration in the Borough Office of the Register of the City of New York shall be a precondition for the issuance of a building permit.

In addition, the preceding waterfront public access area elements shall be recorded on the Certificate of Occupancy by the Departments of Buildings or Business Services, as applicable, and shall be a condition of issuance of such Certificate of Occupancy.

For parcels identified in Waterfront Access Plan BK-1 for which an alternate plan for joint maintenance and operation has been approved, or for parcels for which a transfer to the City is proposed pursuant to paragraph (eb) of Section 62-624 62-73, the provisions of such instruments as are necessary to effectuate such paragraph shall supersede those of the maintenance and operation agreement described in this Section.

#### ~~62-70~~ ~~62-80~~

##### SPECIAL REVIEW PROVISIONS

#### ~~62-16~~ (modified)

##### Requirements for Applications

An application to the Department of Buildings, Department of City Planning or Department of Business Services, involving a zoning lot subject to the provisions of this Chapter, shall include a survey of the zoning lot showing the following elements, as applicable, and documentation showing compliance with all requirements for waterfront public access areas:

- (a) pierhead line;
- (b) bulkhead line;
- (c) shoreline#, including its length;

- (d) upland lot#, including its area;
- (e) seaward lot#, including its area;
- (f) area of the portion of the zoning lot# seaward of the shoreline#;
- (g) existing piers#, platforms# or floating structures#, including water coverage# and surface elevation or height, as applicable;
- (h) previously established and recorded visual corridors#, shore public walkways#, upland connections#, supplemental public access areas# and waterfront public access areas# or any other public access area on the zoning lot# or on adjoining zoning lots#;
- (i) visual corridors# or waterfront public access areas# required on the zoning lot# by a Waterfront Access Plan set forth in Section 62-80 62-90; and
- (j) existing bulkheads and stabilized portions of natural shore showing seaward and landward edges, as well as their top elevations;

#### ~~62-71~~ ~~62-81~~

##### Certifications by the Chairperson of the City Planning Commission

The provisions of Sections 62-711 62-811 and 62-712 62-812, relating to certifications for waterfront public access areas, visual corridors# and zoning lot# subdivisions, shall not apply to all zoning lots# within waterfront blocks# and any other blocks# included within a Waterfront Access Plan, except that the following shall not be subject to the provisions of Section 62-711 62-811:

airports, heliports and seaplane bases;

developments# involving predominantly single-# or two-family residences# within detached#, semi-detached# or zero lot line buildings# on existing zoning lots# of less than 10,000 square feet in any district, provided such zoning lots# are not included within an area subject to a Waterfront Access Plan pursuant to Section 62-80 62-90;

zoning lots# in R1 and R2 Districts; and

zoning lots# in C8 and Manufacturing Districts#, involving predominantly uses# in Use Groups 16, 17 or 18 uses#, except for docking facilities serving passenger ocean vessels or sightseeing, excursion or sport fishing vessels.

zoning lots# in R1 and R2 Districts

#### ~~62-711~~ ~~62-811~~

##### Waterfront public access and visual corridors

No excavation or building permit shall be issued for any development# on a waterfront block#, or any other block# included within a Waterfront Access Plan, until the Chairperson of the City Planning Commission certifies to the Department of Buildings or Department of Business Services, as applicable, that:

- (a) there is no waterfront public access area# or visual corridor# requirement for the development# due to the following:
  - (1) the development# is exempt pursuant to Sections 62-41 62-52 (Requirements for Applicability of Waterfront Public Access Area Requirements) or 62-42 62-51 (Requirements for Applicability of Visual Corridors Requirements); or
  - (2) the waterfront public access area# or visual corridor# requirement has been waived pursuant to Section 62-80 62-90 (WATERFRONT ACCESS PLANS); or
- (b) a site plan has been submitted showing compliance with the provisions of Section 62-40 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS AND VISUAL CORRIDORS) and 62-60 (DESIGN STANDARDS REQUIREMENTS FOR THE WATERFRONT PUBLIC ACCESS AREAS); or

- (c) a site plan has been submitted showing compliance with the provisions of Section ~~62-80~~ 62-90; or
- (d) for ~~#developments#~~ listed in Section ~~62-40~~ 62-52, paragraph ~~(a)(1)~~ (b), on a ~~#zoning lot#~~ containing a public access area established prior to October 25, 1993, meeting the terms of Section ~~62-415~~ 62-58 paragraph ~~(e)~~ (Requirements for ~~supplemental public access areas~~ Water-Dependent Uses and Other Developments), by restrictive declaration, lease agreement, maintenance and operation agreement or other agreement with a public entity, which public access area is required to be provided for a ~~period not less than the anticipated life of the new #development#~~, a copy of such restrictive declaration or agreement and a site plan indicating the location, area and design of the required public access area and showing substantial compliance with the provisions of ~~the first paragraph of~~ Section ~~62-415~~ 62-58, ~~paragraph (b)~~, have been submitted; or
- (e) for the ~~#development#~~ of a park, a site plan and all other applicable data have been submitted showing compliance with the provisions of Section ~~62-416~~ 62-59 (Special ~~r~~Regulations for ~~z~~Zoning ~~I~~Lots that ~~i~~Include ~~p~~Parks).

For any parcel identified in Waterfront Access Plan BK-1, the Chairperson shall allow for the phased implementation of all required ~~#waterfront public access areas#~~ upon certification to the Commissioner of Buildings that a plan has been submitted that provides for an amount of ~~#waterfront public access area#~~ proportionate to the amount of ~~#floor area#~~ being ~~#developed#~~ in each phase. Additionally, for any ~~#development#~~ located within 240 feet of a ~~#shoreline#~~, the initial phase and each subsequent phase shall provide a minimum of 200 linear feet of ~~#shore public walkway#~~ and any adjacent ~~#supplemental public access area#~~ located between such ~~#development#~~ and such ~~#shore public walkway#~~, one ~~#upland connection#~~ through or adjacent to the entire parcel leading to the ~~#shore public walkway#~~, and at least one other connection from the ~~#shore public walkway#~~ to an adjacent ~~#shore public walkway#~~, ~~#street#~~ or other ~~#upland connection#~~. For any ~~#development#~~ located entirely beyond 240 feet of a ~~#shoreline#~~, the initial phase and each subsequent phase shall also provide a minimum of 100 linear feet of ~~#shore public walkway#~~ and one ~~#upland connection#~~ through or adjacent to the entire parcel leading to the ~~#shore public walkway#~~. However, no ~~#waterfront public access area#~~ need be provided for a phase consisting of a ~~#development#~~ in which all ~~#residences#~~ in such phase are affordable ~~#residences#~~ for ~~#lower income households#~~ as defined in Section 23-93, or ~~#moderate income households#~~ as defined in Section 62-352 (Inclusionary Housing), provided that such exemption shall only apply where 25 percent or less of the total ~~#residential floor area#~~, including any applicable ~~#floor area#~~ bonuses, on the parcel ~~have~~ has been ~~#developed#~~.

A certification pursuant to paragraphs (b) or (c) of this Section shall be granted on condition that an acceptable restrictive declaration is executed and filed pursuant to Section ~~62-14~~ 62-74 (Requirements for Recordation).

Within 45 days of receipt of a complete application, the Chairperson shall either certify that the proposed ~~#development#~~ complies with the requirements of this Section or disapprove such application, citing the nature of any failure to comply. Failure to certify or disapprove such application within the 45 day period will release the Department of Buildings or the Development of Business Services from any obligation to withhold the excavation or building permit and authorize such agency to determine compliance with the provisions of this Section.

**62-712 62-812**  
**Zoning lot subdivision**

An existing ~~#zoning lot#~~ within a ~~#waterfront block#~~, or within any other ~~#block#~~ included in a Waterfront Access Plan, may be subdivided into two or more ~~#zoning lots#~~, or reconfigured in a manner that would reduce its area or any dimension, only in accordance with the provisions of this Section or as modified pursuant to Section 62-822 (Modification of waterfront public access area and visual corridor requirements).

Such ~~#zoning lot#~~ may be subdivided or reconfigured, provided that the Chairperson of the City Planning Commission certifies that:

- (a) there are no ~~existing~~ requirements in this Chapter for a ~~#waterfront public access area#~~ or ~~#visual corridors#~~ on ~~the such~~ ~~#zoning lot#~~ for any #use# permitted on such #zoning lot#; or
- (b) ~~the proposed subdivision or reconfiguration will not affect a minimum dimension or area which would mandate waterfront public access or #visual corridors#; or~~

- (e) ~~in the event a subdivision or reconfiguration affects a minimum dimension or area as set forth in paragraph (b) of this Section, such waterfront public access or #visual corridors# will continue to be provided on any subdivided or reconfigured #zoning lots# that would result, as evidenced by the recording of a deed restriction against such property.~~

a restrictive declaration shall be recorded against each subdivided or reconfigured #zoning lot#, binding all such #zoning lots# to provide #waterfront public access areas# or #visual corridors# at the time of a #development#, other than an exempt #development#, as set forth in Section 62-52. Such restrictive declaration shall include a site plan that sets forth the amount and location of the required #waterfront public access areas# and #visual corridors# on all resulting #zoning lots#.

Such #waterfront public access area# or #visual corridor# shall be provided as required for the original #zoning lot# at the time of #development# of a non-exempt #use#; or

- (c) there are existing publicly accessible waterfront open areas on the #zoning lot# constructed as part of a previously approved site plan providing physical and visual access to and along the waterfront, and such open areas are no smaller in square footage than that required under the provisions of this Chapter for #waterfront public access areas# and #visual corridors#, and restrictions have been recorded against the property requiring such existing open area to remain accessible to the public for the life of the #development#.

**62-72 62-82**  
**Authorizations by the City Planning Commission**

\* \* \*

**62-721 62-821**  
**Modification of requirements for ferries and sightseeing, excursion or sport fishing vessels**

\* \* \*

- (b) In all districts, the City Planning Commission may authorize a reduction or waiver of the parking requirements of Section ~~62-53~~ 62-43 for docks serving ferries, or sightseeing, excursion or sport fishing vessels, provided the applicant submits a report that enables the Commission to make one or more of the following findings:

\* \* \*

- (c) In all districts, the Commission may authorize modification of the passenger drop-off and pick-up area requirements of Section ~~62-562~~ 62-462, including a reduction in the number of required spaces, for docks serving ferries, or sightseeing, excursion or sport fishing vessels, provided the Commission finds that:

\* \* \*

**62-722 62-822**  
**Modification of waterfront public access area and visual corridor requirements**

~~The City Planning Commission may:~~

- (a) Authorization to modify requirements for location, area and minimum dimensions of #waterfront public access areas# and visual corridors

The City Planning Commission may ~~authorize modification of~~ modify the requirements of Section ~~62-40~~ 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS AND VISUAL CORRIDORS) and, in conjunction therewith, Section 62-332 (Rear yards and waterfront yards). The Commission may also authorize a portion or all of the required #waterfront public access area# to be provided off-site on an adjoining public property.

The Commission shall file any such authorization, pursuant to this paragraph, (a), with the City Council. The Council, within 20 days of such filing, may resolve by majority vote to review such authorization. If the Council so resolves, within 50 days of the filing of the Commission's authorization, the Council shall hold a public hearing and may approve such authorization in whole or in part, with additional or modified restrictions or

conditions, or disapprove such authorization. If, within the time periods provided for in this Section, the Council fails to act on the Commission's authorization, the Council shall be deemed to have approved such authorization.

As a condition to the granting of

- (1) ~~the regulations would result in an unfeasible #development# due to the presence of existing #buildings or other structures# or unique #shoreline# conditions such as wetlands; or~~

In order to modify the location of #waterfront public access areas# and #visual corridors#, the Commission shall find that such areas, provided either on the #zoning lot# or off-site adjacent to the #zoning lot#, shall:

- (i) comply with the required minimum dimensions and equal the required total area, in aggregate; and
- (ii) due to their alternative location and design, provide equivalent public use and enjoyment of the waterfront and views to the water from upland #streets# and other public areas; or
- (2) ~~strict adherence to the regulations would adversely affect existing topography, vegetation or views having environmental, historic or aesthetic value to the public; or~~
- (3) ~~for a commercial or community facility #development#, it would be impractical to satisfy the #development's# programmatic requirements while adhering to the regulations.~~

~~The Commission shall require that alternate waterfront public access areas and #visual corridors# on the #zoning lot#, or off-site adjacent to the #zoning lot#, are provided that are substantially equal in area to that required and, by virtue of their location and design, provide equivalent public use and enjoyment of the waterfront and views to the water from upland #streets# and other public areas.~~

- (2) In the event the Commission determines that there is no feasible way to provide ~~substantially~~ equal alternative #waterfront public access areas# either on the #zoning lot# or off-site on an adjoining public property or to provide ~~substantially~~ equal alternative #visual corridors#, the Commission may authorize a reduction in minimum dimensions or area, or may waive ~~of the~~ such requirements, provided that:

- (i) such #development# would be impracticable, physically or programmatically, due to site planning constraints such as the presence of existing #buildings or other structures# or elements having environmental, historic or aesthetic value to the public; and
- (ii) that the reduction or waiver of requirements is the minimum necessary.

- (b) Authorization to modify requirements within #waterfront public access areas#.

~~authorize modifications of the requirements of Section 62-60 (DESIGN STANDARDS FOR THE WATERFRONT AREA).~~

The City Planning Commission may modify the requirements within the #waterfront public access area# provisions of Sections 62-513 (Permitted obstructions in visual corridors), 62-58 (Requirements for Water-Dependant Uses and Other Developments, Requirements for Supplemental Public Access Areas), Section 62-60 (DESIGN REQUIREMENTS FOR WATERFRONT PUBLIC ACCESS AREAS), inclusive, and Section 62-90 (WATERFRONT ACCESS PLANS), inclusive.

~~As a condition to the~~ In order to granting of such authorization, the Commission shall find that:

- (1) such modifications are necessary to accommodate modifications pursuant to paragraph (a) of this Section; or

- (2) such modifications would result in a design of ~~the~~ #waterfront public access areas# that is functionally equivalent or superior to the design prescribed by strict adherence to the applicable provisions of Section 62-60.

- (c) ~~authorize, in the case of #zoning lots# undergoing partial development, a phasing plan to implement public access improvements on a proportional basis as the lot is improved.~~

Authorization for phased development of #waterfront public access areas#

The City Planning Commission may authorize a phasing plan to implement #waterfront public access area# improvements on #zoning lots# undergoing partial development or #zoning lots# subdivided or reconfigured pursuant to Section 62-812.

In order to grant such authorization, the Commission shall find that:

- (1) the amount of #waterfront public access area# developed in any phase is proportionate to the #lot area# being developed in such phase; or
- (2) physical or programmatic constraints make it infeasible to provide the #waterfront public access area# on a proportional basis as the #zoning lot# is improved, and the maximum feasible amount of #waterfront public access area# is developed in each phase.

A phasing plan shall be submitted that sets forth the amount and location of #waterfront public access area# that will be provided at the time of #development# of each phase.

- (d) Authorization to modify minimum hours of operation and to install gates

The City Planning Commission may authorize, for a period not to exceed ten years, modifications of the requirements for hours of operation set forth in Section 62-71, paragraph (a), or the installation of gates in #predominantly residential developments# in accordance with the provision of Section 62-651, paragraph (c)(2).

The Commission shall find that any modification of the hours of operation and the installation of gates in #predominantly residential developments# are warranted due to the remote location of the #waterfront public access areas#, and that such modified hours of operation or gates will not thereby unduly restrict public access to the waterfront.

As a condition of granting such authorization, the Commission shall find that all gates comply with the design requirements set forth in Section 62-651.

Public access to the #waterfront public access areas# shall be assured by appropriate legal instruments. Signage setting forth hours of operation shall be affixed to the gate which shall indicate the hours of public access authorized pursuant to this paragraph, (d).

The Commission may impose appropriate conditions and safeguards to assure that such modifications will achieve comparable physical and visual access to the waterfront or to assure that an approved phasing plan will be properly implemented. Such conditions may include, but are not limited to, requirements for deed restrictions, easements or performance bonds.

~~62-723~~ **62-823**

**Modification of use regulations in C3 Districts**

\* \* \*

~~62-73~~ **62-83**

**Special Permits by the City Planning Commission**

~~62-731~~ **62-831**

**Docks for passenger ocean vessels in C6 Districts**

\* \* \*

- (c) an area will be provided for the drop-off and pick-up of passengers by private car, taxi, van and bus that, at a minimum, meets the requirements of

Section ~~62-562~~ 62-462 (Passenger drop-off and pick-up areas for docking facilities), and which is so designed as to avoid traffic or pedestrian conflict on the ~~streets~~ providing access to the facility; and

\* \* \*

**~~62-732~~ 62-832**

**Docks for ferries or water taxis in Residence Districts**

\* \* \*

- (d) ~~accessory~~ off-street parking spaces are provided in accordance with Section ~~62-53~~ 62-43 (Parking Requirements for Commercial Docking Facilities) and the entrances and exits for such ~~accessory~~ parking facilities are so located as to not adversely affect ~~residential~~ properties fronting on the same ~~street~~; and

\* \* \*

**~~62-733~~ 62-833**

**Uses on floating structures**

\* \* \*

The Commission may also permit modification of the ~~visual corridor~~ requirements of Section ~~62-42~~ 62-51, inclusive, provided it makes the additional finding that the location and configuration of the ~~floating structure~~ minimizes any adverse effects on significant views to the water from upland ~~streets~~ or other public places.

\* \* \*

**~~62-734~~ 62-834**

**Developments on piers or platforms**

In all districts, the City Planning Commission may permit:

- (a) a change of ~~use~~ on a ~~new pier~~ or ~~new platform~~ from a WD ~~use~~ ~~or the following WE uses: public park~~ or playground or publicly accessible private park, to any other WE ~~use~~ permitted by the applicable district regulations and, in conjunction with such change of ~~use~~, modification of the ~~bulk~~ regulations of Section 62-30 for an existing ~~building~~, except for Section 62-31, paragraph (a), or the maximum ~~floor area ratio~~ for the applicable district, provided the Commission finds that:

\* \* \*

- (b) for an ~~existing pier~~, any ~~use~~ permitted by the applicable district regulations and modifications of the provisions of Sections 62-332 (Rear yards and waterfront yards) and 62-342 (Developments on piers), provided the Commission finds that:

\* \* \*

- (c) for ~~existing or new piers~~, modification of the ~~waterfront public access area~~ and ~~visual corridor~~ requirements of Sections ~~62-40~~ 62-50 and 62-60, provided the Commission finds that:

- (1) the proposed ~~development~~ would result in better achievement of the goals set forth in Section 62-00 (General Purposes) than would otherwise be possible by strict adherence to the regulations of Sections ~~62-40~~ 62-50 and 62-60, inclusive; and

- (2) ~~an alternative waterfront public access area~~ and ~~visual corridors~~ on the ~~zoning lot~~, or off-site on a public property adjacent to the ~~zoning lot~~, are provided that are substantially equal in area to that required and, by virtue of their location and design, provide equivalent public use and enjoyment of the waterfront and views to the water from upland ~~streets~~ and other public areas.

In the event ~~that~~ the Commission determines ~~that~~ there is no feasible way to provide substantially equal alternative public access areas, either on the ~~zoning lot~~ or off-site on an adjoining public property or to provide substantially equal alternative ~~visual corridors~~, the Commission may authorize a reduction or waiver of the requirements.

The Commission may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the waterfront and the surrounding area, including requirements for setbacks from ~~lot lines~~, spacing from other ~~buildings~~ on the same or adjoining ~~zoning lots~~, limitations on lighting and signage and limitations on size of individual establishments.

**~~62-735~~ 62-835**

**Public parking facilities on waterfront blocks**

\* \* \*

**~~62-736~~ 62-836**

**Bulk modifications on waterfront blocks**

In all districts, the City Planning Commission may permit modification of any applicable ~~yard~~, ~~lot coverage~~, height and setback, and distance between ~~buildings~~ regulations for a ~~development~~ on a ~~zoning lot~~ within a ~~waterfront block~~, excluding any portion on a ~~pier~~ or ~~new platform~~, provided the Commission finds that such modifications:

- (a) ~~the zoning lot has unique natural features such as rock outcroppings, significant grade changes or wetlands; or has an irregular shoreline or shape; or contains existing buildings or other structures;~~

- (b) ~~the site plan of the proposed development would result in better bulk placement and articulation of buildings, and a better arrangement of open spaces than would be possible by strict adherence to the bulk regulations;~~

- (c) ~~the proposed development would provide physical or visual public access to the waterfront in a way that is superior to that which would be possible by strict adherence to the bulk regulations; and~~

- (d) ~~such modifications would significantly enhance the relationship between the proposed development and the surrounding area.~~

- (a) will result in a better site plan and a better relationship between the zoning lot and the adjacent streets, surrounding development, adjacent open areas and shoreline than would be possible through strict adherence to the regulations; or

- (b) are necessary to protect unique natural features such as rock outcroppings, significant grade changes or wetlands, or to accommodate existing buildings or other structures; and

- (c) will not adversely affect access to light and air on surrounding waterfront public access areas, streets and properties.

**~~62-737~~ 62-837**

**Docks for gambling vessels**

\* \* \*

*(N.B. Section 62-80 (WATERFRONT ACCESS PLANS, et seq. ) has been modified and renumbered as 62-90, et seq.)*

**~~62-80~~ 62-90**

**WATERFRONT ACCESS PLANS**

**~~62-81~~ 62-91**

**General Provisions**

**~~62-811~~ 62-911**

**Establishment of Waterfront Access Plans**

The City Planning Commission and City Council may adopt a Waterfront Access Plan as an amendment to this Resolution pursuant to Section 200 or 201 of the City Charter and in accordance with the provisions of Sections ~~62-812~~ 62-912

(Elements of a Waterfront Access Plan), ~~62-813~~ 62-913 (Conditions for the adoption of a Waterfront Access Plan) and this Section in order to adjust the #waterfront public access area# and #visual corridor# requirements of Sections ~~62-40~~ 62-50 and 62-60, inclusive, retain the #waterfront block bulk# regulations of Section 62-30 on newly-created non-#waterfront blocks# within a specifically defined portion of the #waterfront area#, or establish #waterfront yard# requirements for #developments# otherwise exempt from the requirements of Section 62-33 (Special Yard Regulations on Waterfront Blocks).

\* \* \*

#### ~~62-812~~ 62-912

##### Elements of a Waterfront Access Plan

A Waterfront Access Plan may:

- (a) on #zoning lots# where a #waterfront public access area# or #visual corridors# are required pursuant to the provisions of Sections ~~62-40~~ 62-50 and 62-60, inclusive, modify the size, configuration, location or design of required #waterfront public access areas# or #visual corridors# within certain designated areas in order to address local conditions, provided such plan does not impose a #waterfront public access area# or #visual corridor# requirement on any #zoning lot# greater than would otherwise be required pursuant to the provisions of Sections ~~62-40~~ 62-50 or 62-60. For the purpose of determining the amount of public access, the highest standard applicable to a #zoning lot# may be applied regardless of any specific #use# permitted or proposed for such #zoning lot#. Within Waterfront Access Plan BK-1, the #waterfront public access area# and #visual corridor# requirements for any parcel located within the Waterfront Access Plan may be determined by aggregating the #waterfront public access area# and #visual corridor# requirements of each #zoning lot# within the parcel and such aggregated requirements may be modified within such parcel without regard to #zoning lot lines#;
- (b) on #zoning lots# where a #waterfront public access area# or #visual corridors# are not required pursuant to the provisions of Sections ~~62-40~~ 62-50 and 62-60, inclusive, establish requirements for a #waterfront public access area# or #visual corridors#, except for those #zoning lots# predominantly developed# for airports, heliports, seaplane bases or, in C8 or #Manufacturing Districts#, #uses# in Use Groups 16, 17 or 18, provided that such #zoning lots#, when improved would result in a community need for such physical or visual access to the waterfront or a waterfront linkage of #public parks# or other public areas. The plan may incorporate one or more of the #waterfront public access areas# or #visual corridors# listed in Section ~~62-40~~ 62-50, inclusive, consistent with the standards of Sections ~~62-40~~ 62-50 and 62-60, inclusive. Such standards may be modified as necessary to address local conditions provided such plan does not impose a requirement for any component greater than would otherwise be required, pursuant to the provisions of Sections ~~62-40~~ 62-50 or 62-60;
- (c) modify or waive specific requirements for a #waterfront public access area# or #visual corridors# in certain designated areas where such requirements would not be compatible with local conditions and therefore not serve to further public enjoyment of the waterfront;
- (d) identify shore terminations of mapped #streets# or #existing #piers# or #platforms# within seaward prolongations of such #streets# and establish public access treatments for such areas after referral to the Department of Transportation or other City agency having jurisdiction over such property for its review and concurrence;
- (e) apply the #bulk# regulations of Section 62-30 to a non-#waterfront block# when such #block# results from a subdivision of a #waterfront block# as the result of a #street# mapping; and
- (f) for #developments# where a #waterfront yard# is not otherwise required by Section 62-33, establish requirements for a #waterfront yard# provided such plan does not impose a requirement greater than would be required by the provisions of Sections 62-331 or 62-332, as modified by the further provisions of this paragraph, (f), for such other #developments#. #Enlargements# of #buildings or other structures# existing on the effective date of the Waterfront Access Plan shall be permitted within such #waterfront yard# provided that the #enlargement# is for WD #uses# or Use Group 16, 17 or 18 #uses# and no portion of the #enlargement#, other than permitted obstructions, is within 20 feet of the seaward edge of the #waterfront yard#. In addition, obstructions shall be permitted within such #waterfront yard# pursuant to applicable district #yard# regulations, except that no #building# or portion of a #building# shall be permitted within 10 feet of the seaward edge of such #waterfront yard#.

A Waterfront Access Plan shall include the following elements:

- (1) identification of the plan by Borough and plan number or area name;
- (2) a #zoning map#, or portion thereof, showing the boundaries of the geographical area included within the plan, which shall constitute the plan map;
- (3) delineation on the plan map of any physical or visual waterfront access features mandated by the plan to be at specific locations; and
- (4) a description in the plan text of all features established or modified by the plan, with reference to affected blocks and lots.

\* \* \*

#### ~~62-813~~ 62-913

##### Conditions for adoption of a Waterfront Access Plan

As a condition precedent to its approval of a Waterfront Access Plan, the City Planning Commission shall find, in its report to the City Council for adoption, that such plan:

- (a) would improve public use and enjoyment of the waterfront, thereby serving to implement the goals set forth in Section 62-00; and
- (b) meets any of the following:
  - (1) is necessary to link #public parks# or other public areas along the waterfront or to the waterfront, and such linkage would not necessarily be achieved solely by the provisions of Sections 62-34, ~~62-40~~ 62-50 and 62-60;
  - (2) is necessary to accommodate unique shore conditions or the retention of existing #buildings or other structures#, including bridges, viaducts or railways that would not be adequately accommodated by the provisions of Sections ~~62-40~~ 62-50 and 62-60;
  - (3) is necessary to accommodate unique topography or natural features, such as wetlands conditions, significant grade changes, geologic formations, natural vegetation or wildlife habitats, which natural features or topography would not be adequately accommodated by the provisions of Sections 62-34, ~~62-40~~ 62-50 and 62-60;
  - (4) is necessary to create a better physical or visual relationship of the waterfront to significant upland #streets# or preserves significant views of the water or historic structures from such #streets#, which would not necessarily be achieved by the provisions of Sections 62-34, ~~62-40~~ 62-50 and 62-60;

\* \* \*

#### ~~62-82~~ 62-92

##### Borough of The Bronx

#### ~~62-83~~ 62-93

##### Borough of Brooklyn

The following Waterfront Access Plans are hereby established within the Borough of Brooklyn. All applicable provisions of Article VI, Chapter 2, remain in effect within the areas delineated by such plans, except as expressly set forth otherwise in the plans:

BK-1: Greenpoint-Williamsburg, as set forth in Section ~~62-831~~ 62-931.

#### ~~62-831~~ 62-931

##### Waterfront Access Plan BK-1: Greenpoint-Williamsburg

Maps BK-1a through BK-1c in paragraph (g) of this Section show the boundaries of the area comprising the Greenpoint-Williamsburg Waterfront Access

Plan and the location of certain features mandated or permitted by the Plan. The plan area has been divided into parcels consisting of tax blocks and lots and other lands as established on May 11, 2005, as follows:

\* \* \*

(a) Area wide modifications

The following provisions shall apply to all #developments# required to provide a #waterfront public access area#, pursuant to Section ~~62-40~~ 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS AND VISUAL CORRIDORS):

(1) Paragraph ~~(e)~~ (a)(3) of Section ~~62-412-62-54~~ (Requirements for ~~Public Access on Piers~~) is applicable, except that a minimum of 15 feet ~~are~~ is required along each water edge.

~~(2) The provisions of Section 62-61 (Design Options and Methodology) shall be inapplicable. In lieu thereof, the following provisions shall apply:~~

~~(i) All required public access areas and #visual corridors# shall comply with the general requirements set forth in Section 62-62 (General Requirements for Public Access Areas) and the specific requirements as set forth in this Section.~~

~~(ii) #Upland connections#, #visual corridors#, public access areas on #piers# and public access areas in conjunction with #floating structures# shall comply with the design requirements set forth in Sections 62-64 through 62-66, inclusive.~~

~~(iii) Public access areas are subject to the design reference standards set forth in Section 62-67 and paragraph (d) of this Section.~~

~~(2) In addition to the requirements of Section 62-65 (Public Access Design Reference Standards), all #waterfront public access areas# are subject to the provisions set forth in paragraph (c) of this Section.~~

~~(3) The provisions of Section 62-623 (Supplemental public access areas) shall be inapplicable. In lieu thereof, the following provisions shall apply:~~

~~(i) A required #supplemental public access area# shall be directly connected to either a #pier# public access area, an #upland connection# or a #shore public walkway# on either its landward or seaward side and its pedestrian circulation zone shall be contiguous with the adjacent pedestrian circulation zone.~~

~~(ii) A buffer zone shall only be required where a #supplemental public access area# adjoins a non publicly accessible portion of a #zoning lot#, in which case its minimum width shall be 15 feet.~~

~~(4-3) #Street# treatment~~

All #streets# adjacent to a #shore public walkway# or #supplemental public access area# shall be improved as a continuation of such #shore public walkway# or #supplemental public access area#, pursuant to the design requirements of paragraph (b) of this Section 62-62 (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas), inclusive.

~~(b) Specific design requirements for Public Access Prototypes (delete entire paragraph)~~

(eb) Amenities

In parcels where #supplemental public access area# is required, no more than 15 percent of public access area may be reduced if playgrounds

~~and other amenities are provided in accordance with the following provisions:~~

~~(1) — Playgrounds~~

~~A playground shall have a minimum size of 1,000 square feet and, if applicable, there shall be a minimum of 400 feet between any two playground areas. For every five square feet of playground area provided, the total amount of required public access may be reduced by the rate of one square foot;~~

~~(2) — Other amenities~~

~~A reduction in the total amount of required #supplemental public access area# shall be permitted according to the following table in this paragraph. (b):~~

REDUCTIONS IN WATERFRONT PUBLIC ACCESS AREAS

Amenity	Square feet reduction
Picnic table	22 sq. ft. per table (max. 200 sq. ft.)
Chess table	20 sq. ft. per table (max. 200 sq. ft.)
Telescope	10 sq. ft. per telescope (max. 50 sq. ft.)
Fountain/water feature	150 sq. ft. per feature (max. 300 sq. ft.)
Shade structure	150 sq. ft. per structure (max. 300 sq. ft.)

~~(dc) Public access design reference standard~~

Section ~~62-67~~ 62-65 is hereby modified by the following provisions.

(1) Guardrails

~~The provisions of paragraph (a) of Section 62-671 (Guardrails, gates and other protective barriers) shall be inapplicable. In lieu thereof, the following provisions for guardrails shall apply:~~

~~(i) Guardrails shall be located within #waterfront public access areas# continuously along any bulkhead, stabilized shore or the water edges of a #pier# or #platform# that is located within 50 feet of a circulation path; and continuously along any grade level change of 30 inches or greater adjoining or within 10 feet of a circulation path. However, guardrails shall not be required landward of any rip rap, beach or any other shoreline material that is at least 10 feet wide. If any protective barrier is provided adjacent to any rip rap, beach or other shoreline material, they shall not exceed a height of 21 inches or shall consist of a bollard and chain device.~~

Guardrails shall not be required at access points to WD (Water Dependent) #uses# and #development# on #floating structures#. The minimal protective barrier at

such locations shall be a swing gate, bollard and chain or similar device.

- (ii) Guardrails shall comply with Illustration A1; alternatively, Illustration A2 may be used in #piers#.

In addition to the provisions of paragraph (a) of Section 62-651 (Guardrails, gates and other protective barriers), guardrails shall comply with Illustration A1 of this Section.

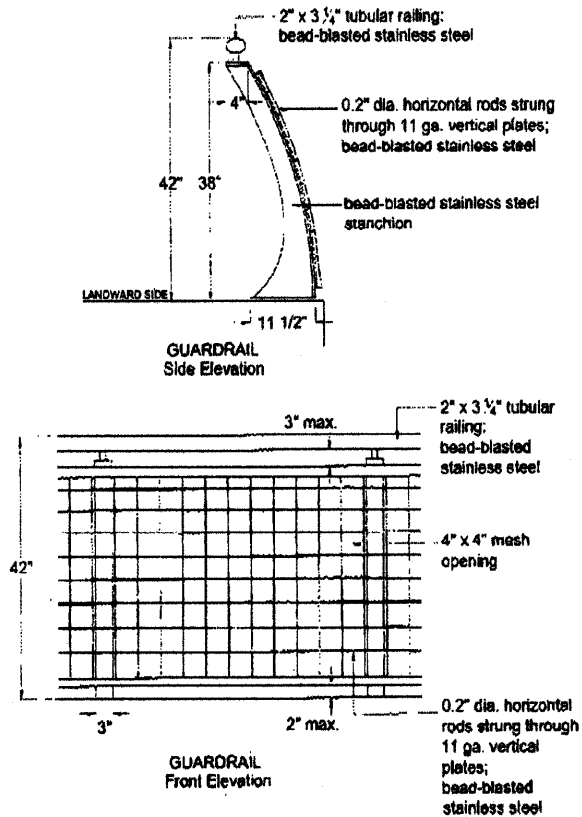


Illustration A1  
(previous illustration deleted and replaced, above)

Illustration A2

(previous illustration deleted) All guardrail components and hardware shall be #316 stainless steel, passivated and bead blasted, or cast aluminum, as applicable.

- (2) Seating

In addition to the provisions of Section 62-672 62-652, at least 50 percent of the required seating along any #shore public walkway# or #supplemental public access area# shall comply with Illustration B1 or B2 in this Section.

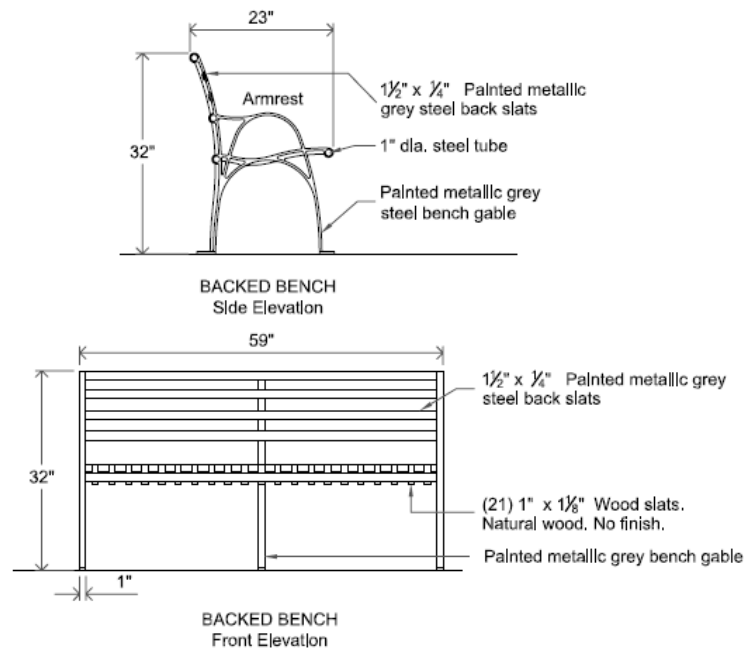


Illustration B1  
(previous illustration deleted and replaced, above)

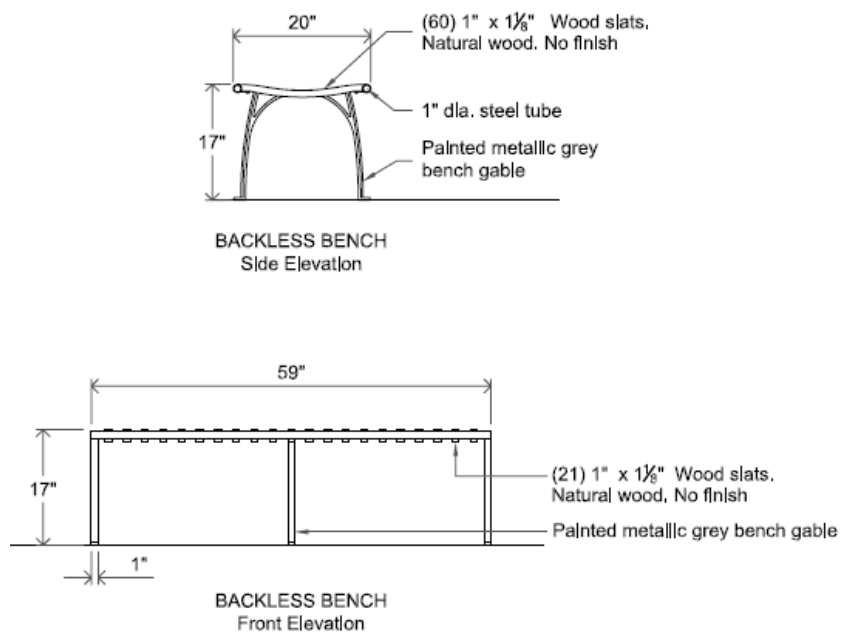


Illustration B2  
(previous illustration deleted and replaced, above)

All wood boards shall be made of domestically grown non-tropical hardwoods, such as American White Oak (Quercus alba), redwood, jarrah or ipe, have eased edges and ends and be treated for external use without stain or varnish.

All supports and backstraps shall be 713 tenzalloy cast aluminum, with a rust inhibitor and a top coat finish of thermosetting polyester powdercoat that is ultra violet, chip and flake resistant. Metal components shall have a light gray or aluminum color.

- (3) Lighting

In addition to the illumination provisions of Section 62-673 62-653, the required lighting shall comply with Illustration C1 in this Section.



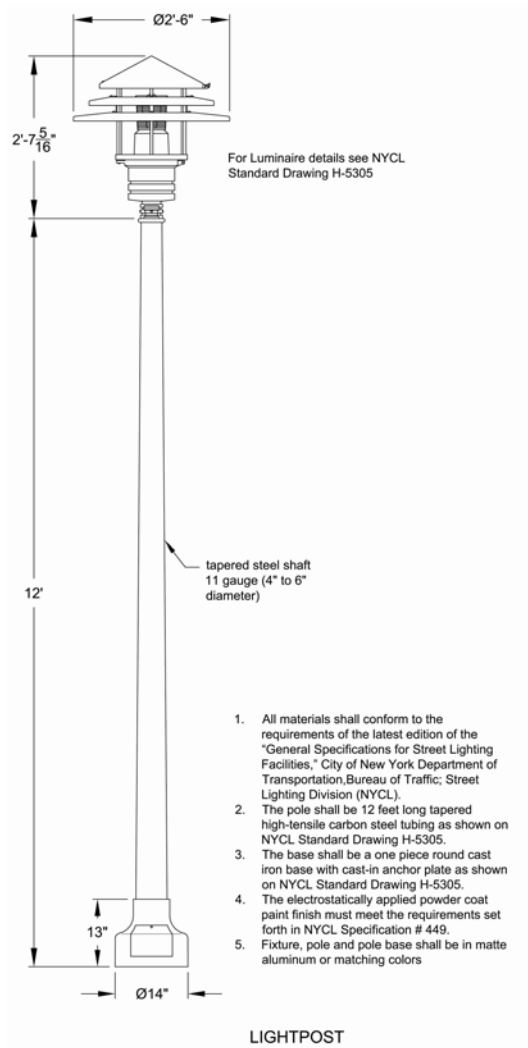


Illustration C1  
(previous illustration deleted)

(4) ~~Planting and trees~~

~~The provisions of paragraph (c)(6)(Container planting) of Section 62-675 shall be inapplicable, unless a structural or environmental necessity is demonstrated at the time of certification.~~

(54) ~~Paving~~

~~In addition to the provisions of Section 62-676 62-656, the paving for the required clear path within the #shore public walkway# shall be gray. At least 50 percent of all other paved areas within the #shore public walkway# and #supplemental public access areas# shall be paved in the same color range.~~

(ed) ~~Special public access provisions by parcel~~

~~The provisions of Sections 62-41 62-52 (Applicability of Requirements for Waterfront Public Access Area Requirements) and 62-60 (DESIGN STANDARDS REQUIREMENTS FOR THE WATERFRONT PUBLIC ACCESS AREAS) are modified at the following designated locations which are shown on Map BK-1b in paragraph (e)(f) of this Section:~~

(1) ~~Parcels 1 and 2~~

(i) ~~#Shore public walkway#~~

~~The requirements for Prototype I described in paragraph (b)(1) of this Section shall apply to all new #development#.~~

~~In the event of any #enlargement#, #extension# or change of #use# within existing #buildings or other structures#, a #shore public walkway# shall occupy the entire area between the seaward edge of the #zoning lot# and the existing #building or other structure#, but need not be wider than 40 feet. The #shore public walkway# shall have a minimum clear path of 10 feet. No seating, or planting or buffer zone shall be required. If seating and planting are provided, they shall comply with the provisions of Sections 62-672 62-652 and 62-675 62-655.~~

respectively. In addition to the lighting design requirements of paragraph (c)(3) of this Section, lighting fixtures may be mounted on existing #buildings or other structures#.

(ii) ~~#Supplemental public access area#~~

~~The requirement for a #supplemental public access area# shall be waived.~~

(2) ~~Parcels 3 and 4~~

(i) ~~#Shore public walkway#~~

~~The requirements for Prototype I described in paragraph (b)(1) of this Section shall apply.~~

(ii) ~~#Upland connection#~~

~~An #upland connection# shall be provided between Commercial Street and the #shore public walkway# within a flexible location along the #lot line# between Parcels 3 and 4. Whichever parcel is developed first shall provide an #upland connection# along the #lot line# between the two parcels. The width of the #upland connection# may be utilized by the developer of the remaining parcel in the computation necessary to comply with the requirements of a #visual corridor# along the #lot line# between the two parcels, according to the provisions of paragraph (e)(1) of this Section. If both parcels are developed concurrently, then the requirements may be divided equally along the #lot line# between the parcels.~~

~~If, however, Parcel 4 is improved #predominately# as a public access area prior to or concurrently with the #development# of Parcel 3, the #upland connection# requirement shall be waived. However, a public way shall be provided within an area bounded at its eastern edge by the shared #lot line# of Parcels 2 and 3, at its northern edge by the #shoreline#, at its western edge by a line 115 feet from the shared #lot line# of Parcels 2 and 3, and at its southern edge by the #lot line# along Commercial Street.~~

~~In addition, such public way shall have a minimum width of 15 feet, and shall comply with the provisions of Section 62-64 (Design Requirements for Upland Connections), as applicable for Type 2 #upland connections#. There shall be no more than two changes in direction over its entire length and no single turn shall be less than 90 degrees relative to the line of travel. Any change in direction with an angle of less than 135 degrees shall be posted with an entry sign and shall comply with the provisions of paragraph (b) of Section 62-654, and shall also be accompanied by an arrow indicating the direction of travel towards the #shore public walkway#. At least 50 percent of the area of any walls bounding such public way shall be glazed. In addition, 24 linear feet of seating shall be provided within such public way and within 50 feet of its boundary with the #shore public walkway# and the #street# it connects to.~~

(3) ~~Parcel 5a~~

(i) ~~#Shore public walkway#~~

~~The requirements for Prototype I described in paragraph (b)(1) of this Section shall apply.~~

(ii) ~~#Upland connection#~~

~~An #upland connection# shall be provided between Commercial Street and the #shore public walkway#~~

within the flexible location zone indicated on Map BK-1b in paragraph ~~(g)~~(f) of this Section.

The eastern boundary of such flexible location zone shall be 110 feet from the shared #lot line# of Parcel 4 and its western boundary shall be 200 feet from the shared #lot lines# of Parcels 5b and 6.

(i-ii) #Supplemental public access area#

The #supplemental public access area# shall abut the #shore public walkway# continuously along its longest side, and shall also abut the required #upland connection# where it meets the #shore public walkway#. The #upland connection#, however, may cut across the #supplemental public access area# provided that ~~no any resulting~~ #supplemental public access area# shall be less than at least 5,000 square feet. All #supplemental public access areas# shall have a minimum width to depth ratio of 1.0 to 1.0 and a maximum width to depth ratio of 2.0 to 1.0. In no event shall the #supplemental public access area# be deeper than 100 feet. ~~The requirements for a waterfront plaza described in paragraph (b)(3) of this Section shall apply.~~

Alternatively, a portion of the required #supplemental public access area# that is a minimum of at least 5,000 square feet may abut the #shore public walkway# continuously along the longest side provided that it also abuts a publicly accessible private drive connecting the #shore public walkway# to Commercial Street. Such publicly accessible private drive shall be improved to the standards of an #upland connection# as required by Section ~~62-641-62-64~~, but shall not be counted towards satisfying the required amount of #waterfront public access area# on the site. ~~The requirements for a waterfront park described in paragraph (b)(4) of this Section shall apply.~~

~~(4)~~ Parcel 5b

~~(i)~~ #Shore public walkway#

~~The requirements for Prototype I described in paragraph (b)(1) of this Section shall apply.~~

~~(5-4)~~ Parcel 5c

~~(i)~~ #Shore public walkway#

~~The requirements for Prototype I described in paragraph (b)(1) of this Section shall apply.~~

~~(ii)~~ #Upland connection#

Two #upland connections# shall be provided between West Street and the #shore public walkway#, ~~one~~ each ~~one~~ located within the prolongation of the #street lines# of Eagle Street and Green Street, respectively.

~~(iii-ii)~~ #Supplemental public access area#

Two #supplemental public access areas# shall be provided on Parcel 5c.

A #supplemental public access area# shall be bounded by the southern boundary of the required Green Street #upland connection#, the #shore public walkway#, the southern boundary of Parcel 5c and the northern prolongation of the eastern boundary of the #shore public walkway# required in Parcel 7. ~~The requirements for a waterfront plaza described in paragraph (b)(3) of this Section shall apply.~~

The remaining required #supplemental public access area# shall be provided either on the #pier# or distributed evenly as a widening of the ~~pedestrian circulation zone of the~~ #shore public walkway# located

between the Eagle Street and Green Street #upland connections#. If any #supplemental public access area# is located on the #pier#, one shade tree shall be required for each 1,000 square feet of #supplemental public access area#, but in no event shall more than four shade trees be required. A shading element may be substituted for the required shade trees at a rate of 450 square feet of shade element per tree.

~~(iv-iii)~~ #Pier# public access

Public access shall be provided on the Green Street #pier# pursuant to the requirements of Section ~~62-412 62-54~~ and paragraph (a)(1) of this Section.

~~(65)~~ Parcel 7

~~(i)~~ #Shore public walkway#

~~The requirements for Prototype I described in paragraph (b)(1) of this Section shall apply, except that any~~ For a portion of the required #shore public walkway#, where the distance between the #shoreline# and the #zoning lot line# boundaries of Parcel 7 is less than 17 feet, ~~such portion~~ shall be improved entirely as ~~clear~~ circulation path.

~~(ii)~~ #Supplemental public access area#

The requirement for a #supplemental public access area# on Parcel 7 is waived.

~~(76)~~ Parcels 9, 10 and 11

~~(i)~~ #Shore public walkway#

~~The requirements for Prototype II described in paragraph (b)(2) of this Section shall apply.~~

~~(ii)~~ #Supplemental public access area#

For each parcel, the #supplemental public access area# requirements shall be provided to widen the ~~pedestrian circulation zone of the~~ #shore public walkway#, which shall be evenly distributed along the entire length of such #shore public walkway#.

~~(87)~~ Parcel 13

~~(i)~~ #Shore public walkway#

~~The requirements for Prototype I described in paragraph (b)(1) of this Section shall apply.~~

~~(ii)~~ #Upland connection#

An #upland connection# shall be provided between West Street and the #shore public walkway# located within the prolongation of the #street lines# of Milton Street.

~~(i-ii)~~ #Supplemental public access area#

A #supplemental public access area# shall be bounded by the southern #street line# of Greenpoint Avenue, the #shore public walkway# and the northern boundary of the required Milton Street #upland connection#. ~~The requirements for a waterfront park described in paragraph (b)(4) of this Section shall apply.~~

~~(98)~~ Parcel 14

~~(i)~~ #Shore public walkway#

~~The area between the prolongation of the northern #street line# of Calyer Street and the prolongation of the northern boundary of the required Calyer Street #upland connection# shall be improved pursuant to the requirements of Prototype II described in paragraph (b)(2) of this Section. The remaining required #shore public walkway# shall be improved pursuant to the requirements of Prototype I as described in paragraph (b)(1) of this Section.~~

~~(ii) — #Upland connection#~~

~~An #upland connection# shall be provided between West Street and the #shore public walkway#. The southern boundary of such #upland connection# shall be defined by a line between the intersection of the prolongation of the southern #street line# of Calyer Street and the western #street line# of West Street, and a point on the easterly boundary of the #shore public walkway# 30 feet north of the northern #street line# of Quay Street.~~

~~(i-ii) #Supplemental public access area#~~

~~Two #supplemental public access areas# shall be provided. A #supplemental public access area# with a minimum of 9,000 square feet shall be provided between the prolongation of the northern #street line# of Calyer Street and the prolongation of the northern boundary of the required Calyer Street #upland connection# to widen the pedestrian circulation zone of the #shore public walkway#.~~

~~The remaining requirements for #supplemental public access area# shall be located in the area bounded by the southern boundary of the required Calyer Street #upland connection#, the #shore public walkway# and the southern boundary line of the parcel. The requirements for a waterfront park described in paragraph (b)(4) of this Section shall apply.~~

(409) Parcel 15

An #upland connection# shall be provided within the prolongation of the #street lines# of West Street, connecting Quay Street to Parcel 20.

(410) Parcels 19, 20, 21 and 22

Parcels 19, 20, 21 and 22 shall be designated as public parks, as of May 11, 2005.

~~(12) — Parcel 24~~

~~#Shore public walkway#~~

~~The requirements for prototype I described in paragraph (b)(1) of this Section shall apply.~~

~~(1311) Parcel 25~~

~~(i) #Shore public walkway#~~

~~The requirements for Prototype I described in paragraph (b)(1) of this Section shall apply.~~

~~(ii) — #Upland connection#~~

~~An #upland connection# shall be provided between West Street and the #shore public walkway# located within the prolongation of the #street lines# of North 6th Street.~~

~~(iii) #Supplemental public access area#~~

~~Two #supplemental public access areas# shall be provided.~~

One #supplemental public access area# shall be provided along the prolongation of the southern #street line# of North 7th Street and the #shore public walkway#. Such public access area shall be a minimum of 3,000 square feet in area and shall have a minimum depth of 90 feet measured from the #shore public walkway#. The entire #supplemental public access area#, excluding the required buffer, shall be developed as clear circulation path. A screening buffer shall be provided along the boundaries of the public access area and any private portion of the #zoning lot#, pursuant to Section 62-655. No other planting shall be required.

A minimum of one linear foot of seating shall be required for every ~~40~~ 65 square feet of ~~pedestrian circulation zone and shall be located in the required buffer zone~~ #supplemental public access area#. Four trees shall be required, at least two of which ~~are~~ shall be shade trees. ~~Small or ornamental trees located within the buffer zone shall not be counted toward the minimum requirements.~~

The remaining required #supplemental public access area# shall be located either on the #pier# or shall abut the #shore public walkway# continuously along its longest side, and shall also abut the required #upland connection# where it meets the #shore public walkway#. At least 70 percent of the required #supplemental public access area# shall have a width to depth ratio of 2:1. ~~The requirements for a waterfront plaza described in paragraph (b)(3) of this Section shall apply.~~ If any #supplemental public access area# is located on the #pier#, one shade tree shall be required for each 1,000 square feet of #supplemental public access area#, but in no event shall more than four shade trees be required. A shading element may be substituted for the required shade trees at a rate of 450 square feet of shade element per tree.

~~(iviii) #Pier# public access~~

Public access shall be provided on a #pier# located at the western terminus of North 6th Street pursuant to the requirements of Section ~~62-412~~ 62-54 and paragraph (a)(1) of this Section.

~~(412) Parcel 26~~

~~(i) #Shore public walkway#~~

The requirements of Section ~~62-411~~ 62-53 (Requirements for ~~sShore pPublic wWalkways~~) shall apply, except that the minimum required width of the #shore public walkway# shall be reduced to 34 feet between North 5th Street and the northern boundary of the required #upland connection# at the prolongation of North 4th Street. The quantity of public access eliminated from the #shore public walkway# as a result of this width reduction shall be located in the triangle formed between the #shore public walkway#, the southern #street line# of the North 4th Street #upland connection# and the bulkhead line. ~~The entirety of the #shore public walkway# shall be improved pursuant to the requirements for Prototype I described in paragraph (b)(1) of this Section.~~

~~(ii) #Upland connections#~~

An #upland connection# shall be provided between Kent Avenue and the #shore public walkway# located within the prolongation of the #street lines# of North 4th Street. However, if the #upland connection# is provided within a private drive pursuant to Section ~~62-622~~ 62-56, then a portion of the southern ~~pedestrian circulation zone~~ public access area beyond 15 feet from Kent Avenue may be located up to 15 feet outside the prolongation of the #street lines# of North 4th Street, provided that this ~~pedestrian circulation zone~~ public access area is not located entirely outside the prolongation of the #street

lines# of North 4th Street at any point within 80 feet of Kent Avenue.

(13) Parcel 27

(i) #Shore public walkway#

~~The requirements for Prototype I described in paragraph (b)(1) of this Section shall apply to all new #development#.~~

In the event of ~~any~~ an #enlargement#, #extension# or change of #use# within existing #buildings or other structures#, a #shore public walkway# shall occupy the entire area between the seaward edge and the existing #building or other structure#, but need not be wider than 40 feet.

Notwithstanding the requirements of paragraph (e-a) of Section ~~62-62~~ 62-61 (General ~~Requirements for Provisions Applying to Waterfront Public Access Areas~~), the #shore public walkway# may be located within the #building or other structure#, and the obstructions permitted by Section ~~62-626~~ 62-611, paragraphs (a) and (b), shall include any supporting structural elements of the #building or other structure# and its related appurtenances.

~~Additionally~~ In addition, the #shore public walkway# shall have a minimum clear path of 12 feet. No seating, planting or buffer zone shall be required. If seating and planting are provided, they shall comply with the provisions of Sections ~~62-672-62-652~~ and ~~62-675-62-655~~, respectively. In addition to the lighting design requirements of paragraph (c)(3) of this Section, lighting fixtures may be mounted on existing #buildings or other structures#.

(ii) #Supplemental public access area#

The requirements for #supplemental public access# shall be waived.

(f) Special visual corridor provisions by parcel

The designated locations for #visual corridors# pursuant to this Plan are shown on Map BK-1c in paragraph (e)(f) of this Section and shall be as follows:

(1) Parcels 3 and 4

A #visual corridor# shall be provided through Parcels 3 and 4 to the pierhead line within a flexible area along the common #lot line# ~~between them~~.

Whichever parcel is developed ~~second~~ later shall complete the required clearance to comply with the #visual corridor# requirements along the #upland connection# ~~already~~ provided in accordance with the requirements of paragraph (e)(d)(2)(i-i) of this Section. If ~~both~~ the parcels are developed concurrently, then the requirements can be divided equally along the #lot line# between the parcels.

If, however, Parcel 4 is improved #predominately# for a public access area(s) prior to or concurrently with the #development# of Parcel 3, and a #visual corridor# is provided in Parcel 4, then the requirements for a #visual corridor# on Parcel 3 shall be waived.

(2) Parcel 5a

A #visual corridor# shall be provided through Parcel 5a to the pierhead line within the flexible location zone indicated on Map BK-1c in paragraph (e)(f) of this Section. The eastern boundary of such flexible area shall be 110 feet from the shared #lot line# of Parcel 4 and its western boundary shall be 200 feet from the shared #lot line# of Parcels 5b and 6.

\* \* \*

(4) Parcel 5c

\* \* \*

(ii) The permitted obstructions on #piers#, in Section ~~62-65~~ 62-631, paragraph (b), shall be permitted obstructions along the #visual corridor# along Green Street.

\* \* \*

(g) Greenpoint-Williamsburg Waterfront Access Plan Maps  
BK-1a: Parcel Designation  
*(previous illustration deleted and replaced)*

BK-1b: Public Access Elements  
*(previous illustration deleted and replaced, above)*

BK-1c: Designated Visual Corridors  
*(previous illustration deleted and replaced, above)*

~~62-84~~ 62-94  
**Borough of Manhattan**

~~62-85~~ 62-95  
**Borough of Queens**

The following Waterfront Access Plans are hereby established within the Borough of Queens. All applicable provisions of Article VI, Chapter 2, remain in effect within the areas delineated by such plans, except as expressly set forth otherwise in the plans:

Q-1: Northern Hunters Point, as set forth in Section ~~62-854~~ 62-951.

Q-2: Downtown Flushing, as set forth in Section ~~62-852~~ 62-952.

Q-3: Newtown Creek, in the #Special Southern Hunters Point District#, as set forth in Section 125-46 (Newtown Creek Waterfront Access Plan).

~~62-851~~ 62-951  
**Waterfront Access Plan Q-1: Northern Hunters Point**

Maps Q-1a through Q-1c in paragraph (f) of this Section show the boundaries of the area comprising the Northern Hunters Point Waterfront Access Plan and the location of certain features mandated or permitted by the Plan. The plan area has been divided into parcels consisting of tax blocks and lots and other lands as established on October 14, 1997, as follows:

\* \* \*

(a) Special #waterfront yard# requirements

The #yard# regulations of Section 62-33 (Special Yard Regulations on Waterfront Blocks) shall be applicable. In addition, for #developments# not required to provide a #waterfront yard# pursuant to Section 62-33, #yards# meeting the dimensional requirements of Section 62-33 shall be provided in connection with any #development#, in accordance with the provisions of paragraph (f) of Section ~~62-842~~ 62-912 (Elements of a Waterfront Access Plan).

(b) Area wide modifications

The following provisions shall apply to #developments# required to provide a #waterfront public access area#, pursuant to Section ~~62-40~~ 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS AND VISUAL CORRIDORS), inclusive:

- (1) ~~Paragraph (a) of Section 62-415 62-57~~ (Requirements for sSupplemental pPublic aAccess aAreas) shall be inapplicable except where specifically stated otherwise in this Plan.
- (2) ~~Paragraph (b) of Section 62-415 62-58~~ (Requirements for Water-Dependent Uses and Other Developments) shall be inapplicable. In lieu thereof, for #developments# listed in ~~62-40 62-52~~, paragraph ~~(a)~~ (b), required #waterfront public access areas# shall be provided in accordance with Sections ~~62-411 62-53~~ (Requirements for sShore pPublic wWalkways), ~~62-412 62-54~~ (Requirements for pPublic aAccess on pPiers), ~~62-413 62-55~~ (Public access rRequirements for Public Access on fFloating sStructures) and ~~62-414 62-56~~ (Requirements for uUpland eConnections), as modified by this Plan.

However, for #developments# that include WD #uses# and would otherwise be permitted to provide public access pursuant to ~~paragraph (b) of Section 62-415 62-58~~, the location of the public access areas specified in this Plan may be moved upland from the #shoreline# for the minimum distance required to accommodate the upland water-dependent functions of such #developments#, provided the relocation allows for a continuous public walkway connecting to #shore public walkways# on all-adjointing #zoning lots#.

- (c) Special #waterfront public access area# and #visual corridor# provisions applying on Anable Basin

The following provisions shall apply to certain #developments# on Parcels 8, 9, 10, 11 and 12:

- (1) In the event that a #building or other structure#, existing at the time that a #waterfront public access area# is required, is located so that the minimum dimensional provisions of Sections ~~62-411 62-53~~ and ~~62-412 62-54~~ cannot be met without requiring the partial or complete demolition of such #building or other structure#, the required width of such a #waterfront public access area# shall be reduced to the width between the seaward edge of the #waterfront yard# or #lot line# and the existing #building or other structure#. However, the minimum width of a #shore public walkway# shall be six feet and that of an #upland connection# shall be twelve feet. In no case shall a #shore public walkway# have a width less than ten feet for a continuous distance of more than 300 feet.
- (2) In the event that a #building or other structure#, existing at the time a #waterfront public access area# is required, is located so that the minimum dimensional standards for public access pursuant to paragraph (c)(1) of this Section cannot be met without requiring the partial or complete demolition of such #building or other structure#, all #waterfront public access area# requirements for such #development# shall be waived.
- (3) ~~In addition to the Public Access Area Design Prototypes permitted pursuant to Section 62-61 (Design Options and Methodology), a~~ #shore public walkway# required in conjunction with a #development# involving existing #buildings or other structures#, or required on any #zoning lot# having a #shoreline# length of less than 150 feet, ~~may~~ shall be improved pursuant to Section ~~62-633 (Shore public walkway Prototype III: Low intensity walkway). 62-62 (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas)~~, except that the circulation path as required in paragraph (a)(1) of such Section may be reduced to 10 feet and the amount of planting area as required in paragraph (c)(1) of such Section may be reduced to 40 percent.
- (4) Within any portion of a #shore public walkway# having a width of less than ten feet, the minimum width of the circulation path shall be six feet and all planting requirements shall be waived.

- (d) Special public access provisions by parcel

The provisions of Section ~~62-41 62-52 (Requirements for Applicability of wWaterfront pPublic aAccess Area Requirements)~~ and Section 62-60

(DESIGN STANDARDS REQUIREMENTS FOR THE WATERFRONT PUBLIC ACCESS AREAS), inclusive, are modified at the following designated locations which are shown on Map Q-1b in paragraph (f) of this Section:

- (1) Parcel 1

No #upland connection# shall be required within Parcel 1 ~~and all provisions relating to #upland connections# shall be inapplicable~~; however, a direct connection shall be provided between the #shore public walkway# and Queensbridge Park.

\* \* \*

- (3) Parcel 3

No #upland connection# shall be required within Parcel 3 ~~and all provisions relating to #upland connections# shall be inapplicable~~; however, a direct connection shall be provided between the #shore public walkway# and the public access area provided on Parcel 4.

- (4) Parcel 4

- (i) A continuous public access area shall be provided across the westerly termination of 43rd Avenue adjoining the East River and connecting without interruption to the #shore public walkways# on Parcels 3 and 5. Such #waterfront public access area# shall have a minimum width of 40 feet and be improved consistent with the design standards set forth in Section ~~62-632 62-62~~, paragraphs (a) and (c)(1), for a #shore public walkway# ~~moderate intensity walkway. Landscaped s-A screening buffer, pursuant to Section 62-655~~, shall be provided along any open or enclosed storage areas, maintenance vehicle parking or similar uses adjoining the #waterfront public access area#. Fencing may be provided to assure physical control of non-publicly accessible upland areas.

- (ii) The remaining portion of Parcel 4 shall provide pedestrian access from Vernon Boulevard to the #waterfront public access area# designated in paragraph (d)(4)(i) of this Section. The New York City Waterfront Symbol with the words "Public Waterfront" shall be installed at the intersection of any pedestrian access area with Vernon Boulevard.

- (iii) In the event that 43rd Avenue is demapped as a #street# within Parcel 4, a #shore public walkway# and #upland connection# shall be provided on Parcel 4, pursuant to Sections ~~62-40 62-50~~ and 62-60, within the westerly prolongation of 43rd Avenue.

- (5) Parcel 5

- (i) #Shore public walkway#

~~In addition to the Public Access Area Design Prototypes permitted pursuant to Section 62-61 (Design Options and Methodology), a #shore public walkway# required in conjunction with a #development# that involves only an #enlargement#, #extension# or change of #use#, may be improved pursuant to Section 62-634 (Shore public walkway Prototype IV: Open-recreation walkway).~~

- (ii) #Upland connection#

An single #upland connection# shall be provided through Parcel 5 between Vernon Boulevard and the #shore public walkway#. The #upland connection# shall be located within either:

\* \* \*

The requirements of Sections ~~62-414-62-561~~ (Types of upland connections) (~~Requirements for upland connections~~), paragraph (b), ~~62-622~~ (Upland connections) and ~~62-641-62-64~~ (Design ~~Requirements for~~ Upland eConnections) shall be inapplicable; however, any vehicular way traversing the pedestrian sidewalk shall be at the same level as such raised pedestrian sidewalk, interrupting the raised sidewalk shall be marked as a pedestrian crosswalk by paint striping or other visually distinctive method.

A direct connection shall be provided between the #shore public walkway# and the public access areas on Parcels 4 and 6.

- (iii) #Supplemental public access area#

Notwithstanding paragraph (b)(1) of this Section ~~and the locational requirements of Section 62-63 (Specific Design Requirements for Public Access Area Prototypes)~~, a #supplemental public access area# shall be provided pursuant to Section ~~62-415-62-57 and 62-62~~, paragraph (a), that, and shall be located within the flexible location zone described in paragraph (d)(5)(i-i) of this Section, and immediately adjacent to the intersection of the #shore public walkway# and any #upland connection#, if the #upland connection# is located therein. The #supplemental public access area# shall be improved as a single #supplemental public access area#; however, residual public access area, not exceeding the quantity permitted by Section 62-61, may also be provided.

- (6) Parcel 6

Sections ~~62-40-62-50~~ and 62-60 shall be inapplicable if public access is provided pursuant to restrictive declaration, number D-138, executed by the RAK Tennis Corporation on July 29, 1991, and as such may be modified pursuant to the terms of the declaration and in accordance with Section 62-12 (Applicability to Developments in the Waterfront Area). If public access is not provided pursuant to the declaration, as such may be modified, then a #waterfront public access area# shall be provided in accordance with Sections ~~62-40-62-50~~, as modified by paragraph (b) of this Section, and 62-60.

- (7) Parcel 7

- (i) #Shore public walkway#

\* \* \*

For #developments# on a #zoning lot# having a #building or other structure#, existing on October 14, 1997, and which #developments# would retain the existing #building or other structure#, any portion of which is located within the #waterfront yard#, the #shore public walkway# may be improved pursuant to Section ~~62-633(Shore public walkway Prototype III: Low-intensity walkway)-62-62~~ (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas), except that the circulation path as required in paragraph (a)(1) of such Section may be reduced to 10 feet and the planting area as required in paragraph (c)(1) of such Section may be reduced to 40 percent. In addition, any portion of the #shore public walkway# located on a #platform# existing on October 14, 1997, shall be exempt from the planting requirements of such Section ~~62-63 (Specific Design Requirements for Public Access Design Prototypes)~~, except that trees shall be required; however, such trees may be located off the #platform# anywhere within or immediately adjoining the #shore public walkway#.

- (ii) #Upland connection#

No #upland connection# shall be required within Parcel 7 ~~and all provisions relating to #upland connections# shall be inapplicable; however, a direct~~

~~connection shall be provided between the #shore public walkway# and 44th Drive.~~

- (8) Parcel 8

An #upland connection# shall be provided through Parcel 8 and shall be located within the flexible location zone shown on Map Q-1b in paragraph (f) of this Section, having as its westerly boundary the westerly #street line# of 5th Street and as its easterly boundary a line 250 feet east of such #street line#. In the event that a #building or other structure#, existing at the time an #upland connection# is required, is located within the southerly prolongation of 5th Street, the #upland connection# may be located anywhere within the flexible location zone; otherwise, the #upland connection# shall be located within the southerly prolongation of 5th Street. ~~In addition, a direct connection shall be provided between the #shore public walkway# and 44th Drive at the northwesterly termination of the #shore public walkway#.~~

- (9) Parcels 9, 10 and 11

- (i) #Shore public walkway#

Except as provided in paragraph (c) of this Section, a #shore public walkway# shall be required across each parcel; however, on any #zoning lot# existing on October 14, 1997, having a #shoreline# length of less than 150 feet, the width of the #shore public walkway# may be reduced to 16 feet, consisting of a ten foot wide pedestrian circulation path zone and six foot wide screening buffer zone, pursuant to Section 62-655. In addition, the width may be further reduced as permitted pursuant to paragraph (c)(1) of this Section.

- (ii) #Upland connection#

Except as provided in paragraph (c) of this Section and on any #zoning lot# with a #shoreline# length less than 100 feet, an #upland connection# shall be provided between Vernon Boulevard and the #shore public walkway# within the flexible location zone shown on Map Q-1b in paragraph (f) of this Section, having as its northerly boundary the westerly prolongation of the southerly #street line# of 45th Avenue and as its southerly boundary the westerly prolongation of the southerly #street line# of 45th Road. In the event that Parcels 10 and 11 are #developed# as a single #zoning lot# and the #upland connection# has not been provided prior to such #development# of Parcels 10 and 11, the #upland connection# shall be located within the westerly prolongation of 45th Road. Notwithstanding the requirements of Section ~~62-414-62-56~~ (Requirements for ~~Upland eConnections~~), on any #zoning lot# having a #shoreline# length of less than 150 feet, the required width of an #upland connection# may be reduced to 16 feet consisting of a ten foot wide pedestrian circulation path with the remaining area to be planted zone and ~~two three-foot wide buffer zones~~. In addition, the width may be further reduced, as permitted pursuant to paragraph (c)(1) of this Section.

- (10) Parcel 12

No #upland connection# shall be required within Parcel 12 ~~and all provisions relating to #upland connections# shall be inapplicable~~; however, a direct connection shall be provided between the #shore public walkway# and 5th Street.

- (e) Special visual corridor provisions by parcel

The designated locations for #visual corridors# pursuant to this Plan shall be as follows and are shown on Map Q-1c in paragraph (f) of this Section:

\* \* \*

- (5) Parcel 6

Sections ~~62-42-62-51~~(Requirements for Applicability of Visual Corridors Requirements) and ~~62-642-62-513~~ (Permitted obstructions in visual corridors)(Design requirements for visual corridors) shall be inapplicable if a visual corridor is provided pursuant to restrictive declaration, number D-138, executed by the RAK Tennis Corporation on July 29, 1991, and as may subsequently be modified pursuant to the terms of the declaration and in accordance with Section 62-12 (Applicability to Developments within the Waterfront Area). If the visual corridor is not provided pursuant to the declaration, as such may be modified, then a #visual corridor# shall be provided in accordance with Sections ~~62-40 and 62-60~~ 62-51.

\* \* \*

- (8) Parcels 9, 10 and 11

A #visual corridor#, if required pursuant to Section ~~62-40~~ 62-51, shall be located through Parcel 9, 10 or 11 from Vernon Boulevard using the locational criteria for, and coincident with, the #upland connection# required pursuant to paragraph (d)(9)(ii) of this Section.

\* \* \*

- (f) Northern Hunters Point Waterfront Access Plan Maps

Q-1a: Parcel Designation  
(previous illustration deleted and replaced)

Q-1b: Public Access Elements  
(previous illustration deleted and replaced, above )

Q-1c: Designated Visual Corridors  
(previous illustration deleted and replaced, above )

~~62-852~~ 62-952  
**Waterfront Access Plan Q-2;**  
**Downtown Flushing**

Maps Q-2a through Q-2c in paragraph (e) of this Section show the boundaries of the area comprising the Downtown Flushing Waterfront Access Plan and the location of certain features mandated or permitted by the Plan. The plan area has been divided into parcels consisting of tax blocks and lots and other lands as established on September 17, 1998, as follows:

\* \* \*

- (a) Area wide modifications

The following provisions shall apply to all #developments# required to provide public access, pursuant to Section ~~62-40~~ 62-50, inclusive:

- (1) Paragraph (a) of Section ~~62-415~~ 62-57 (Requirements for ~~sSupplemental pPublic aAccess aAreas~~) shall be inapplicable.
- (2) Paragraph (b) of Section ~~62-415~~ 62-58 (Special Regulations for Water-Dependant Uses and Other Developments) shall be inapplicable. In lieu thereof, required #waterfront public access areas# shall be provided by means of a #shore public walkway#, #upland connection# and other public access areas in accordance with this Plan.

However, for WD #use developments# which would otherwise be permitted to provide public access pursuant to Section ~~62-58~~ 62-415, paragraph (b), the location of the #waterfront public access areas# specified in this Plan may be moved upland of the #shoreline# for the minimum distance required to accommodate the upland water-dependent functions of such #developments# and still result in a continuous public walkway connecting #shore public walkways# on all adjoining #zoning lots#.

- (b) Special public access provisions by parcel

The ~~provisions~~ requirements for #waterfront public access areas# of Sections 62-53 through 62-57, inclusive, ~~62-41~~ (Requirements for Waterfront Public Access) and Section 62-60 (DESIGN STANDARDS REQUIREMENTS FOR THE WATERFRONT PUBLIC ACCESS AREAS), inclusive, are modified at the following designated locations which are shown on Map Q-2b in paragraphs (e) of this Section:

- (1) Parcel 1

- (i) #Shore public walkway#

The requirements of Section ~~62-411~~ 62-53 (Requirements for shore public walkways) are modified to reduce the minimum required width of the #shore public walkway# to 20 feet. In addition, no #shore public walkway# shall be required north of the prolongation of the northerly #street line# of 36th Road. The quantity of #waterfront public access area# eliminated from the #shore public walkway# as a result of this width and length reduction shall be provided at the northerly termination of the #shore public walkway# and shall be improved pursuant to the standards ~~a waterview park, as set forth in Section 62-636~~ (Supplemental public access area ~~Prototype II: Waterview park~~) of Section 62-62. If Parcel 1 is #developed# in conjunction with one or more adjoining parcels, or portions thereof, the area on Parcel 1 required to be improved pursuant to the standards for a ~~waterview park~~ #supplemental public access area# may be provided on Parcel 2.

\* \* \*

- (2) Parcel 2

- (i) #Shore public walkway#

The requirements of Section ~~62-411~~ 62-53 are modified to reduce the minimum required width of the #shore public walkway# to 20 feet. The quantity of public access area eliminated from the #shore public walkway# as a result of this width reduction shall be provided adjoining the intersection of the required #upland connection# and the #shore public walkway# and shall be improved pursuant to the design standards for a ~~waterview park~~ #supplemental public access area#, as set forth in Section ~~62-636~~ 62-62.

\* \* \*

- (3) Parcel 3

- (i) #Shore public walkway#

The requirements of Section ~~62-411~~ 62-53 are modified to reduce the minimum required width of the #shore public walkway# to 20 feet. The quantity of public access area eliminated from the #shore public walkway# as a result of this width reduction shall be provided adjoining the intersection of the required #upland connection# and the #shore public walkway# and shall be improved pursuant to the design standards for a ~~waterview park~~ #supplemental public access area#, as set forth in Section ~~62-636~~ 62-62. If Parcel 3 is #developed# in conjunction with Parcel 4, or a portion thereof, the area of Parcel 3 required to be improved pursuant to the design standards for a ~~Waterview park~~ #supplemental public access area# may be provided on Parcel 4.

(ii) #Upland connection#

An #upland connection# shall be located between 39th Avenue and the #shore public walkway# within the flexible location zone indicated on the Map Q-2b in paragraph (e) of this Section, having as its southerly boundary the prolongation of the southerly #street line# of 39th Avenue and as its northerly boundary a line drawn parallel and 75 feet north of such southern boundary.

In the event #buildings or other structures# existing within Parcel 3 on September 17, 1998, obstruct any portion of the flexible location zone at the time ~~any of~~ #development# ~~commences~~ the minimum requirements of Sections ~~62-622 (Upland connections)~~ 62-561 (Types of upland connections), and the design requirements for #upland connections# of Section 62-64 ~~62-641 (Design requirements for upland connections)~~ shall be modified, as follows:

- (a) the required #upland connection# if located within a private drive shall, for a distance not to exceed 200 feet measured westerly of the #street line# of Janet Place, consist of a single ~~pedestrian circulation path zone~~ having a minimum clear width of six feet ~~improved entirely as a circulation path without required no requirement for planting or seating; or~~
- (b) if the required #upland connection# is not within a private drive, its minimum width shall be reduced along its entire length to 25 feet, ~~consisting of a 16 foot wide pedestrian circulation zone and two buffer zones which are 4 feet, 6 inches wide.~~

If Parcel 3 is #developed# in conjunction with any portion of Parcel 4 and there are no existing #buildings or other structures# blocking 50 percent or more of the width of the prolongation of 39th Avenue at the time ~~any of~~ #development# ~~commences~~, ~~the modifications of the foregoing paragraph shall not apply~~ no reduction shall be permitted and the #upland connection# shall be located within the prolongation of 39th Avenue.

(4) Parcel 4

(i) #Shore public walkway#

The requirements of Section ~~62-411~~ 62-53 are modified to reduce the minimum required width of the #shore public walkway# to 20 feet. However, within the portion of the parcel between the northerly #street line# of Roosevelt Avenue and a point 50 feet northerly as measured along the #shoreline#, the minimum width shall be 40 feet, ~~consisting of a pedestrian circulation zone and buffer zone as provided in Section 62-621 (Shore public walkways)~~. Throughout the southernmost 30 foot length of this widened portion of the #shore public walkway#, ~~the seaward edge of the circulation path shall be located a minimum of 15 feet from the #shoreline#.~~

The quantity of public access area eliminated from the #shore public walkway# as a result of ~~its~~ such width reduction shall be provided adjoining the #shore public walkway# and the boundary between Parcels 3 and 4. Such area shall be improved pursuant to the design standards for ~~a waterfront park~~ #supplemental public access area#, as set forth in Section ~~62-636~~ 62-62.

(ii) #Upland connection#

No #upland connection# shall be required within Parcel 4 ~~and all provisions relating to #upland connections# shall be inapplicable~~; however, a direct connection shall be provided between the required #shore public walkway# and the public access area on Parcel 5. In the event that any portion of Parcel 4 is #developed# with Parcel 3, an #upland connection# shall be provided, pursuant to paragraph (b)(3)(ii) of this Section.

(5) Parcel 5

\* \* \*

- (iii) If other improvements compatible with the ~~waterfront~~ public access area are provided, ~~including, but not limited to, a waterview sitting area, they should such improvements shall~~ adjoin the boundary of Parcel 4.

Section 62-60 shall be inapplicable; its provisions are recommended as a guide to the design of the required public access areas.

(6) Parcel 6

(i) #Shore public walkway#

The requirements of Section ~~62-621~~ 62-53 are modified to require a minimum distance of 15 feet between the seaward edge of the pedestrian circulation path and the #shoreline#.

(ii) #Upland connection#

\* \* \*

Notwithstanding the requirements of paragraph (ee) of Section ~~62-62~~ 62-52 (~~General Requirements for Applicability of Waterfront Public Access Area Requirements~~), the #upland connection# may be located, wholly or in part, within a #building or other structure#. Any covered portion of the #upland connection# shall comply with the requirements of paragraph (d)(7) of this Section.

(7) Parcel 7

(i) #Shore public walkway#

Notwithstanding the requirements of Section ~~62-62~~ 62-61, paragraph (ea), the #shore public walkway# may be covered by the elevated roadway of the Van Wyck Expressway and the obstructions permitted by Section ~~62-626~~ 62-611, paragraphs (a) and (b), shall include any supporting structural elements of the elevated roadway and its related appurtenances. ~~Additionally, the locational requirements of Section 62-63 (Specific Design Requirements for Public Access Prototypes) for pedestrian circulation and buffer zones shall be modified as necessary to accommodate the required clear pedestrian path.~~ The #shore public walkway# shall be connected directly to ~~that~~ the #shore public walkway# on Parcel 6.

(c) Special visual corridor provisions by parcel

The designated locations for #visual corridors# pursuant to this Plan shall be as follows and are shown on Map Q-2c in paragraph (e) of this Section:

\* \* \*

(3) Parcels 3 and 4

A #visual corridor# shall be provided through Parcels 3 or 4 to the pierhead line using the locational criteria for an #upland connection# in paragraph (b)(3)(ii) of this Section. Notwithstanding the requirements of Section ~~62-42~~ 62-51 (~~Requirements for Applicability of Visual Corridors Requirements~~), any #building or other structure# existing on September 17, 1998, shall be a permitted obstruction; however, no such #building or other structure#, or portion thereof, demolished after September 17, 1998, shall be rebuilt as a permitted obstruction and no new #building or other structure# shall be permitted except pursuant to Section ~~62-642 (Design requirements~~



~~for visual corridors). 62-513 (Permitted obstructions in visual corridors).~~

\* \* \*

(d) Special design standards

Required ~~#waterfront public access areas#~~ shall comply with Sections ~~62-50 and 62-60~~, except as modified in ~~this and the preceding paragraphs of this Section.~~

(1) ~~Notwithstanding the requirements of Section 62-61 (Design Options and Methodology), a required #shore public walkway# may be improved pursuant to Section 62-633 (Shore public walkway Prototype III: Low intensity walkway).~~

Any required #shore public walkway# may be improved pursuant to 62-62 (Design Requirements for Shore Public Walkways and Supplemental Public Access Areas), except that the circulation path as required in paragraph (a)(1) of such Section may be reduced to 10 feet and the planting area as required in paragraph (c)(1) of such Section may be reduced to 40 percent.

(2) The minimum required width of a pedestrian circulation path within a #shore public walkway# shall be 10 feet and, notwithstanding the provisions of Section ~~62-624 62-62~~, the path need not adjoin the #shoreline# at any location except as necessary to connect to an adjoining #shore public walkway#. ~~The entire width of any #shore public walkway# having a width of 20 feet or less shall be improved as a pedestrian circulation zone. #Shore public walkways# having a width of 20 feet or less shall not be required to provide a screening buffer.~~

(3) The ~~locational~~ requirements for planting of ~~public access areas~~ within a #shore public walkway#, provided pursuant to Section ~~62-63 62-62~~, shall be modified for any required public access area located on a #pier# or #platform# existing on September 17, 1998, such that any required planting may be provided in an alternative location on the #zoning lot# adjoining the required #waterfront public access area#.

(4) ~~In lieu of the planting and tree requirements of Section 62-63, the #shore public walkway# on Parcel 6 shall be planted with one small, screening or evergreen tree, selected from Group 2, 3 or 6 of Appendix A (Waterfront Plant List), for every 750 square feet of its area, and the required pedestrian circulation zone planting shall include plants from Groups 3, 7 and 8 of Appendix A.~~

~~(5)~~ In addition to the obstructions permitted by Section ~~62-626 62-611~~, paragraphs (a) and (b), the existing loading crane and adjoining tower on Parcel 4 shall be permitted within the #shore public walkway#, provided such structures are restored and a minimum clear pedestrian circulation path of 10 feet is provided.

~~(65)~~ The area of a #shore public walkway# located under an elevated roadway may be subtracted from the total area of #shore public walkway# calculated for the purposes of complying with the seating and tree planting requirements of Section ~~62-63 62-62~~.

~~(76)~~ Any portion of an #upland connection# located within a #building# pursuant to this Plan shall comply with the following design standards:

(i) ~~the entire width of the #upland connection# shall be considered a pedestrian circulation zone and its circulation path shall have a minimum width of 16 12 feet which shall adjoin and connect directly to the building's main lobby via transparently-glazed openings with an aggregate width equal to or exceeding that of any other entrances to the lobby;~~

(ii) the minimum clear height shall be 16 feet except for permitted obstructions which, in addition to those permitted by Section ~~62-626 62-611~~, paragraph (a)(4), shall include structural elements such as beams and joists, provided a minimum clear height of 12 feet is maintained throughout;

\* \* \*

(v) there shall be no more than three changes in direction over ~~the entire length of the #upland connection#~~ and no single turn shall be less than 90 degrees relative to the line of travel. Any change in direction with an angle of less than 135 degrees shall be posted with an entry ~~plaque signage~~ pursuant to Section ~~62-674 62-654~~ (Signage), paragraph (b), ~~excluding the information required in paragraph (b)(4)~~, and shall also be accompanied by an arrow indicating the direction of travel toward the #shore public walkway#;

(vi) in addition to the general requirements of Section ~~62-674 62-654~~, each principal entrance to an #upland connection# within a #building# shall be posted with an entry ~~plaque signage~~ pursuant to Section ~~62-674 62-654~~, paragraph (b). ~~However, the information required in paragraph (b)(4) of this Section shall be required at only one such entrance;~~

(vii) access to the public shall be provided during business hours or from 8:00 a.m. to dusk seven days a week, whichever is greater; and

(viii) the planting and lighting requirements of Section 62-60 shall not apply.

(e) Downtown Flushing Waterfront Access Plan Maps

Q-2a: Parcel Designation  
*(previous illustration deleted and replaced)*

Q-2b: Public Access Elements  
*(previous illustration deleted and replaced, above)*

Q-2c: Designated Visual Corridors  
*(previous illustration deleted and replaced, above)*

~~62-86 62-96~~  
Borough of Staten Island

~~62-87 62-97~~  
Multi-Borough Plans

~~Appendix A~~  
~~Waterfront Plant List~~  
*(delete entire Appendix A)*

\* \* \*

73-01  
General Provisions

\* \* \*

In the #waterfront area#, the powers of the Board to grant special permits are made inapplicable or modified in accordance with the provisions of Section 62-131 (Applicability of ~~Chapter 3 of Article VII, Chapter 3~~).

\* \* \*

74-01  
General Provisions

\* \* \*

In the #waterfront area#, the powers of the Commission to grant special permits are made inapplicable or modified in accordance with the provisions of Section 62-132 (Applicability of ~~Chapters 4, 8 and 9~~ of Article VII, Chapters 4, 8 and 9).

\* \* \*

**78-03**  
**Applicability of this Chapter**

\* \* \*

#Large-scale residential developments# within the #waterfront area# shall be subject to the provisions of Section 62-132 (Applicability of ~~Chapters 4, 8 and 9~~ of Article VII, Chapters 4, 8 and 9).

\* \* \*

**79-11**  
**Applicability of this Chapter**

\* \* \*

#Large-scale community developments# within the #waterfront area# shall be subject to the provisions of Section 62-132 (Applicability of ~~Chapters 4, 8 and 9~~ of Article VII, Chapters 4, 8 and 9).

\* \* \*

**Article X - Special Purpose Districts**

\* \* \*

**Chapter 1**  
**Special Lower Manhattan District**

\* \* \*

**91-69**  
**Special Permit for Development of Piers 9, 11, 13 and 14**

Within the area bounded by South Street, the southerly edge of Pier 9, the U. S. Pierhead Line and the northerly edge of Pier 14, which, for the requirements of this Section, shall be deemed to be a single #zoning lot#, the City Planning Commission may, by special permit, permit modification of the bulk regulations, other than #floor area ratio# applicable to the #zoning lot#, and may modify or waive the requirements of Section ~~62-40~~ 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS AND VISUAL CORRIDORS), in accordance with the provisions of this Section.

The special permit shall be subject to the condition that the property owner, principal lessee or licensee of property owner has entered into an agreement with the Department of Parks and Recreation to operate and maintain the publicly-accessible areas in accordance with Section ~~62-624~~ 62-70 (Maintenance and Operation of Requirements for Waterfront Public Access Areas). For purposes of this Section, such publicly-accessible areas shall be deemed "waterfront public access areas."

\* \* \*

**Article X - Special Purpose Districts**

\* \* \*

**Chapter 7**  
**Special South Richmond Development District**

\* \* \*

**107-09**  
**Applicability of Article VI, Chapter 2**

The Chairperson of the City Planning Commission may, by certification, modify or waive a required #visual corridor#, as defined in Section 62-11, with respect to #developments#, including minor modifications thereto, that contain #designated open space# and a portion of the #waterfront esplanade#, where such #development# is conditioned upon a restrictive declaration that includes a site plan for such #development#, including provisions for public access to such #designated open space# and #waterfront esplanade#, provided that at least one required #visual corridor# continues to be provided pursuant to the restrictive declaration.

\* \* \*

**Article XI - Special Purpose Districts**

**Chapter 2**  
**Special City Island District**

\* \* \*

**112-14**  
**Special Requirements for Waterfront Access**

Except in R1 and R2 Districts, for #residential developments# on #waterfront zoning lots# of 65,000 square feet or more, a publicly accessible waterfront sitting area shall be provided. Such sitting area shall abut the #shoreline#, have a minimum area of 2,500 square feet, a minimum depth of 50 feet measured from the #shoreline# and contain at least 25 one linear foot of seating for every 100 square feet of public access area. Building entrances may not front upon such sitting area.

Such sitting area shall be accessible by means of either a direct connection to a public sidewalk or a publicly ~~traversable~~ way through the #zoning lot# directly connecting the sitting area with a public sidewalk. Such publicly ~~traversable~~ way shall be comprised of a planting strip of at least four feet in width containing one tree of at least three-inch caliper for every 25 linear feet of such ~~traversable~~ way, and a paved sidewalk of at least six feet in width or, for #developments# with #private roads#, sidewalks provided in accordance with the requirements for #private roads# as set forth in Article II, Chapter 6.

Such public access areas shall comply with the provisions of Sections ~~62-44~~ 62-74 (Requirements for Recordation), ~~62-624~~ 62-70 (Maintenance and ~~Operation of~~ Requirements for Waterfront Public Access Areas), ~~62-671~~ 62-651 (Guardrails, gates and other protective barriers), ~~62-672~~ 62-652 (Seating) and ~~62-674~~ 62-654 (Signage).

\* \* \*

**Article XI – Special Purpose Districts**

\* \* \*

**Chapter 5**  
**Special Downtown Jamaica District**

\* \* \*

**115-31**  
**Sidewalk Widening**

\* \* \*

Sidewalk widenings of 10 feet or more must provide one linear foot of seating for every 150 square feet of mandatory sidewalk widening. In addition, the provisions of paragraphs (a) through (d) of Section 62-672 62-652 (Seating) shall apply.

\* \* \*

**Chapter 6**  
**Special Stapleton Waterfront District**

\* \* \*

**116-31**

**Modification of Required Accessory Off-Street Parking Space Regulations for Certain Commercial Uses**

The following #uses# listed in Section 32-23 (Use Group 14) shall be subject to the parking requirements applicable to a C4-2 District, pursuant to Section ~~62-53~~ 62-43 (Parking Requirements for Commercial Docking Facilities):

\* \* \*

**116-35  
Screening and Tree Planting Requirements for Parking Facilities**

The provisions of this Section shall apply to any new or #enlarged# open off-street parking facility with ten spaces or more, except where the provisions of Section 37-90 (PARKING LOTS), inclusive, apply.

(a) Screening

Such off-street parking facilities shall be screened, in accordance with the provisions of this Section, from all adjoining #zoning lots#, including such #zoning lots# situated across a #street#, and from any designated open space accessible to the public situated on the same #zoning lot#, including the #Esplanade#.

Such screening shall consist of a strip at least four feet wide, densely planted with evergreen shrubs at least four feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six feet high within three years.

#Accessory# parking spaces that front upon a #street# shall be screened by a strip at least four feet wide and densely planted with evergreen shrubs to be maintained at all times at a height not less than two and one-half feet and not more than four feet.

In addition, a wall or barrier or uniformly-painted fence of fire-resistant material at least four feet high but not more than eight feet above finished grade may be provided. Such wall, barrier, or fence must be 100 percent opaque up to a height of four feet above the finished grade of the parking facility and not more than 35 percent opaque above four feet. No chain link fences shall be permitted. All permitted fences shall be located behind landscaped areas when viewed from the #street#.

Such screening shall be maintained in good condition at all times, may be interrupted by normal entrances or exits, and shall have no #signs# hung or attached thereto other than those permitted in Sections 32-60, inclusive, or ~~62-674~~ 62-654.

\* \* \*

**116-41  
Upland Connections**

In the locations shown on Map 5 (Upland Connections and Visual Corridors) in the Appendix to this Chapter, #upland connections# shall be provided. An #upland connection# traversing a #zoning lot# shall consist of a single ~~pedestrian~~ pedestrian ~~zone path~~ bordered continuously along both sides by buffer zones.

(a) Required dimensions

The minimum width of the #upland connection# shall be 30 feet, ~~within which the pedestrian circulation zone shall have a minimum width of 16 feet and each buffer zone shall have a minimum width of seven feet.~~ When an #upland connection#, or a portion thereof, is located within a abuts a private driveway, no buffer zone is required.

(b) Buffer zone

~~The provisions of paragraph (b)(2) of Section 62-62 (General Requirements for Public Access Areas) shall apply.~~

The buffer zone is a landscaped area running along the edge of the #upland connection# that bounds the boundary of the non-public portions of the #zoning lot#; each buffer zone shall have a minimum width of seven feet. The buffer zone shall be improved entirely as planting area, except:

(1) \_\_\_\_\_ at locations occupied by permitted obstructions; or

(2) \_\_\_\_\_ at locations where there is ground floor #commercial use# frontage on the #upland connection#, in which case that portion of the buffer zone may be paved.

(c) Permitted obstructions

The provisions of Section ~~62-626~~ 62-611 (Permitted obstructions) shall apply to #upland connections# within the #Special Stapleton Waterfront District#. Certain permitted obstructions listed in paragraph ~~(a)(2)(iii)~~ (b)(1) of Section ~~62-626~~ 62-611 are further subject to the tree and planting requirements of Section ~~62-675~~ 62-655. Water-Dependent (WD) #uses# referenced in paragraph ~~(e)~~ (e) of Section ~~62-626~~ 62-611 shall be as listed in Section 62-211.

\* \* \*

**116-511  
Design requirements for upland connections**

(a) Circulation and access

(1) Where an #upland connection# ~~is located within a~~ abuts a private driveway, a circulation path with a minimum clear width of six feet shall be provided along both sides of the driveway in each pedestrian circulation zone. The remaining area shall be planted pursuant to the provisions of paragraph (c) of this Section.

(2) All other #upland connections# through #zoning lots# shall have a circulation path with a minimum clear width of 16 feet, equal to the minimum required width of the pedestrian circulation zone.

(b) Seating

~~For #upland connections# 100 feet in length or greater, a~~ A minimum of 24 12 linear feet of seating shall be provided for every 100 linear feet of #upland connection#.

(c) Planting

Where a #upland connection# ~~is located within~~ abuts a private driveway, a single row of shade trees shall be planted adjoining a required circulation path in accordance with the standards of Section ~~62-675~~ 62-655 (Planting and trees). Within all #upland connections#, any unpaved area shall be planting area.

**116-512  
Design requirements for visual corridors**

The requirements of this Section shall apply to all #visual corridors#. When a #visual corridor# coincides with an #upland connection#, the provisions of Section 116-521 (Design requirements for upland connections) shall also apply.

No #building or other structure# shall be erected within the width of a #visual corridor#, except as provided in this Section. #Visual corridors# shall be the width of the #street# but shall not be less than 50 feet wide.

Permitted obstructions within #visual corridors# shall be limited to:

- (a) boats, ships or other vessels, and #floating structures# permitted as-of-right by paragraph (a) of Section 62-25 (Uses on Floating Structures);
- (b) any moving or parked vehicles or street furniture, including, but not limited to, benches, seats, kiosks, carts and open display booths, lighting fixtures, flagpoles, trash receptacles, drinking fountains and public telephones;
- (c) guardrails and fences, provided they comply with the design standards of Section ~~62-674~~ 62-651 (Guardrails, gates and other protective barriers), except that fences may be eight feet high;

\* \* \*

**116-53**

**Waterfront Public Access Signage**

The New York City Waterfront Symbol Plaque shall be used to direct the public to waterfront public access areas including the #Esplanade# and #upland connections# and to identify the entry points of these areas. Such signage shall be provided in accordance with requirements of Section ~~62-674~~ 62-654.

\* \* \*

**Article XII - Special Purpose Districts**

\* \* \*

**123-60**

**SPECIAL BULK REGULATIONS**

\* \* \*

**123-62**

**Maximum Floor Area Ratio for Community Facilities**

\* \* \*

The provisions of this Section shall not apply on #waterfront blocks#. In lieu thereof, the applicable maximum #floor area ratio# set forth for #community facility uses# in Section 62-30 (Special Bulk Regulations) through 62-32 (Maximum Floor Area Ratio and Lot Coverage on Waterfront Blocks), inclusive, shall apply.

**123-63**

**Maximum Floor Area Ratio and Lot Coverage Requirements for Residential Buildings in R6, R7, R8 and R9 Districts**

\* \* \*

The provisions of this Section shall not apply on #waterfront blocks#. In lieu thereof, the applicable maximum #floor area ratio# and #lot coverage requirements# set forth for #residential uses# in Section 62-30 (Special Bulk Regulations) through 62-32 (Maximum Floor Area Ratio and Lot Coverage on Waterfront Blocks), inclusive, shall apply.

However, in #Inclusionary Housing designated areas#, as listed in the following table, the maximum permitted #floor area ratio# shall be as set forth in Section 23-942 (In Inclusionary Housing designated areas). The locations of such districts are specified in Section 23-922 (Inclusionary Housing designated areas).

Special Mixed Use District	Designated Residence District
MX 8-Community District 1, Brooklyn	R6 R6A R6B R7A
MX 11-Community District 6, Brooklyn	R7-2

\* \* \*

**123-641**

**Floor area bonus for a public plaza or arcade in connection with mixed use buildings**

Any #floor area# bonus for a #public plaza# or #arcade# permitted under the applicable district regulations for any #residential#, commercial or community facility portion of a #mixed use building# may be applied to a #mixed use building#, provided that any given #public plaza# or #arcade# shall be counted only once in determining a bonus.

However, on #waterfront blocks#, #floor area# bonuses for a #public plaza# or #arcade# shall not apply.

**123-65**

**Special Yard Regulations**

\* \* \*

**123-653**

**Special yard regulations applying on #waterfront blocks#**

On #waterfront blocks#, the #rear yard# regulations of Section 62-33 (Special Yard Regulations on Waterfront Blocks) shall apply. However, for #mixed use buildings#, the special #yard# regulations of Section 123-652 (Special yard regulations for mixed use buildings) shall apply.

**123-654**

**Special provisions applying along district boundaries**

\* \* \*

**123-66**

**Height and Setback Regulations**

The height of all #buildings or other structures# in #Special Mixed Use Districts# shall be measured from the #base plane#.

For any #zoning lot# located in a Historic District designated by the Landmarks Preservation Commission, the minimum base height of a #street wall# may vary between the height of the #street wall# of an adjacent #building# before setback, if such height is lower than the minimum base height required, up to the minimum base height requirements of this Chapter.

On #waterfront blocks#, where the designated #Residence District# is R3, R4 or R5, the height and setback regulations of Section 62-34 (Height and Setback Regulations on Waterfront Blocks), inclusive, shall apply to #buildings and other structures#, except that for #mixed use buildings#, the height and setback regulations set forth in Section 123-661 (Mixed use buildings in Special Mixed Use Districts with R3, R4 or R5 District designations) shall apply.

**123-661**

**Mixed use buildings in Special Mixed Use Districts with R3, R4 or R5 District designations**

\* \* \*

**123-662**

**All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations**

In #Special Mixed Use Districts# where the designated #Residence District# is an R6, R7, R8, R9 or R10 District, the height and setback regulations of Sections 23-60 and 43-40 shall not apply. In lieu thereof, all #buildings or other structures# shall comply with the height and setback regulations of this Section.

\* \* \*

However, all #buildings or other structures# on #waterfront blocks# shall comply with the height and setback regulations set forth for the designated #Residential District# as set forth in Section 62-34 (Height and Setback Regulations in Waterfront Blocks), inclusive.

**123-70**

**PARKING AND LOADING**

\* \* \*

**123-73**

**On Waterfront Blocks**

For #uses# on #waterfront blocks#, the special #accessory# off-street parking and loading regulations set forth in Section 62-40 (Special Parking and Loading Regulations), inclusive, shall apply. When any #use# is permitted in both the designated #Residential District# and the designated M1 District, the #accessory# off-street parking and loading requirements applicable to the designated M1 District shall apply to such #use#.

\* \* \*

125-042

Modification of Article VI, Chapter 2

The provisions of Sections ~~62-41~~ 62-52 (~~Requirements for Applicability of Waterfront Public Access Area Requirements~~) and 62-60 (~~DESIGN STANDARDS REQUIREMENTS FOR THE WATERFRONT PUBLIC ACCESS AREAS~~) are modified as set forth in Section 125-46 (Newtown Creek Waterfront Access Plan).

\* \* \*

125-46

Newtown Creek Waterfront Access Plan

Map 9, in Appendix A of this Chapter, shows the boundaries of the area comprising the Newtown Creek Waterfront Access Plan and the location of certain features mandated or permitted by the Plan. The plan area consists of Block 11, Lot 1, as established on November 13, 2008.

(a) Modification of #use# requirements

All Use Group ~~6 and 9~~ #uses# listed in Section ~~62-212~~ (~~Waterfront Enhancing (WE) uses Waterfront Enhancing~~) shall be a permitted #use# in #Residence Districts# within the Newtown Creek Waterfront Access Plan, provided that:

- (1) ~~such #use# is limited to not more than 10,000 square feet of #floor area# per establishment;~~
- (2) ~~the total amount of #floor area# used for such #uses# does not exceed two percent of the total amount of #floor area# permitted on the #zoning lot#; and~~
- (3) ~~such #uses# are located below the level of the first #story# ceiling of a #building#.~~

~~Additionally, docks for water taxis and docks or mooring facilities for non-commercial pleasure boats, listed in Section 32-16 (Use Group 6), shall be a permitted #uses# within the Newtown Creek Waterfront Access Plan.~~

(b) ~~Area wide M~~modifications of design standards

~~The provisions of Sections 62-41 (Requirements for Waterfront Public Access) are modified at the following designated locations which are shown on Map 7, in Appendix A of this Chapter:~~

~~The requirements for #waterfront public access area#, pursuant to Sections 62-53 through 62-57, inclusive, are modified at the following designated locations:~~

(1) ~~#Shore public walkway#~~

~~The requirements for Prototype I described in paragraph (b)(1) of Section 62-831 (Waterfront Access Plan BK-1: Greenpoint-Williamsburg) shall apply to all new #development#.~~

(2) ~~#Upland connection#~~

~~An single #upland connection# shall be provided through Block 11, Lot 1, abutting the prolongation of 5th Street and extending from the #shore public walkway# northerly to 54th Avenue.~~

(3) ~~#Supplemental public access area#~~

~~#Supplemental public access areas# shall be provided pursuant to Section 62-415 62-457, paragraph (ac), and shall be located as indicated on Map 9.~~

\* \* \*

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU,

MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1057

**Report of the Committee on Land Use in favor of approving Application no. C 090281 ZMQ submitted by the Department of city Planning, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 7d, 11a and 11c.**

The Committee on Land Use, to which was referred on April 22, 2009 the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

**QUEENS CBs - 7 and 11**

**C 090281 ZMQ**

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 7d, 11a and 11c.

**INTENT**

To rezone a portion of the Flushing neighborhood in Queens.

*Report Summary:*

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 1949

**Resolution approving the decision of the City Planning Commission on ULURP No. C 090281 ZMQ, a Zoning Map amendment (Preconsidered L.U. No. 1057).**

By Council Members Katz and Avella.

**WHEREAS**, the City Planning Commission filed with the Council on April 3, 2009 its decision dated April 1, 2009 (the "Decision"), on the application submitted by the Department of City Planning, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map (ULURP No. C 090281 ZMQ) (the "Application");

**WHEREAS**, the Application is related to Application N 090282 ZRY (Preconsidered L.U. No. 1058), amendment to the Zoning Resolution to establish a citywide R1-2A zoning district;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on April 20, 2009;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues and the Negative Declaration, issued on January 20, 2009 (CEQR No. 09DCP042Q);

**RESOLVED:**

The Council finds that the action described herein will have no significant effect on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 7d, 11a and 11c:

1. eliminating from within an existing R4 District a C1-2 District bounded by:
  - a. 25th Avenue, Francis Lewis Boulevard, 26th Avenue, a line 150 feet westerly of 168th Street, a line 150 feet southwesterly of Francis Lewis Boulevard, Bayside Lane, 25th Drive, and 166th Street;
  - b. 26th Avenue, a line 150 feet northeasterly of Francis Lewis Boulevard, 27th Avenue, a line midway between Francis Lewis Boulevard and 172nd Street, 28th Avenue, and Francis Lewis Boulevard;
2. eliminating from within an existing R5 District a C1-2 District bounded by:
  1. Willets Point Boulevard,
  2. Parsons Boulevard,
  3. the westerly prolongation of the northerly street line of 25th Drive,
  4. a line 125 feet westerly of Parsons Boulevard, and
  5. a line perpendicular to Willets Point Boulevard and passing through a point on Course No. 4 distance 160 feet northerly of Course No. 3;
3. eliminating from within an existing R4 District a C1-3 District bounded by 24th Road, a line 100 feet northeasterly of Francis Lewis Boulevard, 169th Street, Francis Lewis Boulevard, and 166th Street;
4. eliminating from within an existing R4 District a C1-4 District bounded by 169th Street, a line 100 feet northeasterly of Francis Lewis Boulevard, 26th Avenue, and Francis Lewis Boulevard;
5. changing from an R1-2 District to an R1-2A District property bounded by 32nd Avenue, a line midway between 162nd Street and 163rd Street, a line 60 feet northerly of 35th Avenue, a line midway between 167th Street and 168th Street, Elmer E. Crocheron Avenue, 164th Street, a line 100 feet northerly of Elmer E. Crocheron Avenue, a line 100 feet northerly of Northern Boulevard, 158th Street, Northern Boulevard, 157th Street, a line 150 feet northerly of Northern Boulevard, and 156th Street;
6. changing from an R1-2 District to an R2 District property bounded by Riverside Drive, 159th Street, Powells Cove Boulevard, and a line midway between 158th Street and 159th Street;
7. changing from an R6 District to an R2 District property bounded by a line 100 feet southerly of 33<sup>rd</sup> Avenue, the southerly prolongation of a line 90 feet easterly of 143<sup>rd</sup> Street (straight line portion), the southerly terminus of 143<sup>rd</sup> Street and its northwesterly and southeasterly prolongations, and Union Street;
8. changing from an R1-2 District to an R2A District property bounded by a line 100 feet northerly of 35th Avenue, a line midway between 167th Street and 168th Street, a line 60 feet northerly of 35th Avenue, and a line midway between 162nd Street and 163rd Street;
9. changing from an R2 District to an R2A District property bounded by:
  - a line midway between 28th Avenue, and 29th Avenue and its westerly prolongation, the northerly prolongation of the easterly street line of 148th Street, 29th Avenue, 148th Street, Bayside Avenue, 150th Street, a line 100 feet southerly of Bayside Avenue, Murray Lane, Bayside Avenue, a line 100 feet westerly of Murray Street, 25th Avenue, 166th Street, Bayside Lane, a line midway between 25th Drive and 26th Avenue, a line 150 feet southwesterly of Francis Lewis

Boulevard, a line 150 feet westerly of 168th Street, 26th Avenue, Francis Lewis Boulevard, 170th Street, 29th Avenue, Francis Lewis Boulevard, 33rd Avenue, 191st Street, a line 150 feet southerly of 33rd Avenue, a line 100 feet southwesterly of Francis Lewis Boulevard, the westerly centerline prolongation of 34th Avenue, 192nd Street, a line 100 feet northerly of 35th Avenue, 190th Street, 35th Avenue, Utopia Parkway, a line perpendicular to the westerly street line of Utopia Parkway distant 100 feet northerly (as measured along the street line) from the point of intersection of the westerly street line of Utopia Parkway and the northerly street line of Elmer E. Crocheron Avenue, 172nd Street, a line perpendicular to the westerly street line of 172nd Street distant 90 feet northerly (as measured along the street line) from the point of intersection of the westerly street line of 172nd Street and the northerly street line of Elmer E. Crocheron Avenue, a line midway between 171st Street and 172nd Street, Elmer E. Crocheron Avenue, 169th Street, a line 100 feet northerly of Elmer E. Crocheron Avenue, 168th Street, Elmer E. Crocheron Avenue, a line midway between 167th Street and 168th Street, a line 100 feet northerly of 35th Avenue, a line midway between 162nd Street and 163rd Street, 32nd Avenue, 156th Street, a line 100 feet southerly of 33rd Avenue, 154th Street, 33rd Avenue, Murray Street, 34th Avenue, a line midway between 147th Place and 148th Street, 33rd Avenue, Union Street, 29th Avenue, and a line 100 feet easterly of Union Street, and excluding the area bounded by a line 150 feet northwesterly of Bayside Lane, 28th Avenue and its easterly prolongation, Bayside Lane, a line 100 feet southerly of 27th Avenue, a line midway between 167th Street and 168th Street, a line 100 feet northerly of 32nd Avenue, 168th Street, 32nd Avenue, a line midway between 166th Street and 167th Street, a line 100 feet northerly of 32nd Avenue, a line midway between 162nd Street and 163rd Street, 29th Avenue, and 161st Street;

26th Avenue, a line 100 feet northeasterly of 202nd Street, a line 250 feet northwesterly of 29th Avenue, 202nd Street, 29th Avenue, Utopia Parkway, 28th Avenue, and 172nd Street; and

26th Avenue, the westerly service road of the Clearview Expressway, 29th Avenue, and 206th Street;

10. changing from an R3-2 District to an R2A District property bounded by:

a. Willets Point Boulevard, 149th Street, a line 100 feet northerly of 25th Drive, 148th Street, 25th Drive and a line midway between 147th Street and 148th Street;

b. Bayside Avenue, Murray Lane, a line 100 feet southerly of Bayside Avenue, and 150th Street;

c. 34th Avenue, Murray Street, a line 150 feet northerly of 35th Avenue, 150th Place, 35th Avenue, and a line midway between 150th Street and 150th Place;

d. a line 150 feet northwesterly of Bayside Lane, 28th Avenue, a line 240 feet easterly of 161st Street, a line 100 feet northwesterly of Bayside Lane, and 161st Street;

e. Bayside Lane, a line 100 feet southerly of 27th Avenue, 166th Street, a line 100 feet northerly of 32nd Avenue, 164th Street, a line 100 feet southerly of 29th Avenue, 65th Street, a line 100 feet northerly of 29th Avenue, 163rd Street, and the easterly centerline prolongation of 28th Avenue; and

f. a line 100 feet southerly of 27th Avenue, a line midway between 167th Street and 168th Street, 29th Avenue, and 167th Street;

11. changing from an R3X District to an R2A District property bounded by:

a. 29th Avenue, 202nd Street, 32nd Avenue, and 201st Street; and

b. 29th Avenue, the westerly service road of the Clearview Expressway, 32nd Avenue, and 204th Street;

12. changing from an R4 District to an R2A District property bounded by:

a. a line midway between 25th Drive and 26th Avenue and its easterly prolongation, 168th Street, 26th Avenue, a line 150 feet westerly of 168th Street, and a line 150 feet southwesterly of Francis Lewis Boulevard;

b. 24th Road, a line 150 feet northeasterly of Francis Lewis Boulevard, 169th Street, and a line 100 feet northeasterly of Francis Lewis Boulevard;

c. a line 150 feet northeasterly of Francis Lewis Boulevard, 26th Avenue, a line 100 feet northeasterly of Francis Lewis Boulevard, and 169th Street; and

d. a line 100 feet southeasterly of 26th Avenue, 172nd Street, 28th Avenue, and 100 feet northeasterly of Francis Lewis Boulevard;

13. changing from an R4-1 District to an R2A District property bounded by 32nd Avenue, the westerly service road of the Clearview Expressway, a line 95 feet

northwesterly of 34th Avenue, a line midway between 204th Street and 205th Street, a line 95 feet southeasterly of 33rd Avenue, 204th Street, a line 95 feet northwesterly of 33rd Avenue, a line midway between 204th Street and 205th Street, a line 95 feet southeasterly of 32nd Avenue, and 204th Street;

14. changing from an R5 District to an R2A District property bounded by 35th Avenue, 190th Street, a line 100 feet northerly of Elmer E. Crocheron Avenue, and Utopia Parkway;

15. changing from an R3-2 District to an R3-1 District property bounded by Willets Point Boulevard, a line midway between 147th Street and 148th Street, 25th Drive, 148th Street, a line 100 feet northerly of 25th Drive, 149th Street, 28th Avenue, and 147th Street;

16. changing from an R2 District to an R3-2 District property bounded by:

a. a line midway between 28th Avenue and 29th Avenue, 149th Street, Bayside Avenue, 148th Street, 29th Avenue, and the northerly prolongation of the easterly street line of 148th Street; and

b. a line 100 feet northerly of 34th Avenue, a line 100 feet westerly of 153rd Street, a line 40 feet northerly of 34th Avenue, 153rd Street, 34th Avenue, and Murray Street;

17. changing from an R2 District to an R3X District property bounded by 26th Avenue, 203rd Street, 29th Avenue, 202nd Street, a line 250 feet northwesterly of 29th Avenue, and a line 100 feet northeasterly of 202nd Street;

18. changing from a R4-1 District to an R3X District property bounded by 32nd Avenue, 204th Street, a line 95 feet southeasterly of 32nd Avenue, and 201st Street;

19. changing from an R2 District to an R4 District property bounded by 25th Drive, Bayside Lane, a line 150 feet southwesterly of Francis Lewis Boulevard, a line midway between 25th Drive and 26th Avenue, Bayside Lane, and 166th Street;

20. changing from an R5 District to an R4 District property bounded by:

a. Willets Point Boulevard, 146th Street, 28th Avenue, and Parsons Boulevard; and

b. 35th Avenue, Francis Lewis Boulevard, the southerly boundary line of the Long Island Rail Road right-of-way (Northside Division), 192nd Street, 39th Avenue, 194th Street, 37th Avenue, 193rd Street, Elmer E. Crocheron Avenue, and a line 240 feet easterly of 192nd Street;

21. changing from an R5 District to an R4-1 District property bounded by 35th Avenue, a line 240 feet easterly of 192nd Street, Elmer E. Crocheron Avenue, 193rd Street, 37th Avenue, 194th Street, 39th Avenue, 193rd Street, a line 100 feet southerly of 37th Avenue, 190th Street, 37th Avenue, 192nd Street, a line 100 feet northerly of 37th Avenue, a line midway between 191st Street and 192nd Street, Elmer E. Crocheron Avenue, and 192nd Street;

22. changing from an R3-2 District to an R4A District property bounded by:

a. Willets Point Boulevard, 147th Street, 28th Avenue, 194th Street, a line midway between 28th Avenue and 29th Avenue, and 146th Street;

b. 25th Avenue, a line 100 feet westerly of Murray Street, Bayside Avenue, 150th Street, a line midway between 29th Avenue and Bayside Avenue, a line 100 feet easterly of 150th Street, 26th Avenue, and a line 95 feet easterly of 150th Street; and

c. 34th Avenue, 149th Place, a line 100 feet northerly of Northern Boulevard, 149th Street, 35th Avenue, and 146th Street;

23. changing from a R5 District to an R4A District property bounded by 28th Avenue, 146th Street, a line midway between 28th Avenue and 29th Avenue, and Parsons Boulevard;

24. changing from an R2 District to an R4B District property bounded by:

a. Francis Lewis Boulevard, 29th Avenue, and 170th Street; and

b. a line 100 feet northerly of 32nd Avenue, 168th Street, 32nd Avenue, and a line midway between 166th Street and 167th Street;

25. changing from an R3-2 District to an R4B District property bounded by a line 100 feet southerly of 27th Avenue, 167th Street, 29th Avenue, a line midway

between 167th Street and 168th Street, a line 100 feet northerly of 32nd Avenue, and 166th Street;

26. changing from an R4 District to an R4B District property bounded by 28th Avenue, Utopia Parkway, and Francis Lewis Boulevard;

27. changing from an R4-1 District to an R4B District property bounded by a line 95 feet northwesterly of 34th Avenue, the westerly service road of Clearview Expressway, a line 100 feet southeasterly of 34th Avenue, and 205th Street;

28. changing from an R2 District to an R5B District property bounded by:

a. a line 100 feet northerly of 35th Avenue, 192nd Street, 35th Avenue, and 190th Street; and

b. a line perpendicular to the westerly street line of 172nd Street distant 90 feet northerly (as measured along the street line) from the point of intersection of the westerly street line of 172nd Street and the northerly street line of Elmer E. Crocheron Avenue, 172nd Street, a line perpendicular to the westerly street line of Utopia Parkway distant 100 feet northerly (as measured along the street line) from the point of intersection of the westerly street line of Utopia Parkway and the northerly street line of Elmer E. Crocheron Avenue, Utopia Parkway, Elmer E. Crocheron Avenue, and a line midway between 171st Street and 172nd Street;

29. changing from an R5 District to an R5B District property bounded by:

a. 35th Avenue, 192nd Street, Elmer E. Crocheron Avenue, a line midway between 191st Street and 192nd Street, a line 100 feet northerly of 37th Avenue, 192nd Street, 37th Avenue, 190th Street, a line 100 feet southerly of 37th Avenue, 192nd Street, the southerly boundary line of the Long Island Rail Road right-of-way (Northside Division), the northerly prolongation of the easterly street line of 189th Street, 39<sup>th</sup> Avenue, 170th Street, Depot Road, a line midway between 168th Street and 169th Street, a line 100 feet southerly of Elmer E. Crocheron Avenue, 169th Street, Elmer E. Crocheron Avenue, Utopia Parkway, a line 100 feet northerly of Elmer E. Crocheron Avenue, and 190th Street; and

b. the southwesterly centerline of 34th Avenue, Francis Lewis Boulevard, 35th Avenue, and 192nd Street;

30. changing from an R2 District to an R5D District property bounded by a line 100 feet northerly of Elmer E. Crocheron Avenue, 169th Street, Elmer E. Crocheron Avenue, and 168th Street;

31. changing from an R5 District to an R5D District property bounded by Elmer E. Crocheron Avenue, 169th Street, a line 100 feet southerly of Elmer E. Crocheron Avenue, a line midway between 168th Street and 169th Street, Depot Road, the northerly centerline prolongation of 168th Street, Station Road, and 167th Street and its southerly centerline;

32. changing from an R6 District to an R5D District property bounded by 31st Drive, Union Street, 33rd Avenue, Leavitt Street, 32nd Avenue, and 140th Street;

33. establishing within an existing R3-2 District a C1-3 District bounded by 28th Avenue, 163rd Street, a line 100 feet northerly of 29th Avenue, 161st Street, a line 100 feet northwesterly of Bayside Lane, and a line 240 feet easterly of 161st Street; and

34. establishing within an existing R4 District a C1-3 District bounded by 25th Avenue, a line 100 feet northeasterly of Francis Lewis Boulevard, 169th Street, a line 100 feet northeasterly of Francis Lewis Boulevard, 28th Avenue, Francis Lewis Boulevard, 26th Avenue, 168th Street, a line midway between 25th Drive and 26th Avenue and its easterly prolongation, a line 100 feet westerly of 168th Street and its northerly prolongation, and Francis Lewis Boulevard;

as shown in a diagram (for illustrative purposes only) dated January 20, 2009, Community Districts 7 and 11, Borough of Queens.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1058

**Report of the Committee on Land Use in favor of approving Application no. N 090282 ZRY submitted by Department of City Planning pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to the creation of an R1-2A Zoning District.**

The Committee on Land Use, to which was referred on April 22, 2009 the annexed Land Use resolution, respectfully

#### REPORTS:

#### SUBJECT

**CITYWIDE**

**N 090282 ZRY**

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for amendment of the Zoning Resolution of the City of New York relating to the creation of an R1-2A Zoning District.

#### INTENT

To create a new R1-2A Zoning District citywide in relation to the North Flushing Rezoning.

Report Summary:

#### COMMITTEE RECOMMENDATION AND ACTION

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 1950

**Resolution approving the decision of the City Planning Commission on Application No. N 090282 ZRY, for amendment of the Zoning Resolution of the City of New York relating to the creation of an R1-2A Zoning District, Citywide (Preconsidered L.U. No. 1058).**

By Council Members Katz and Avella.

**WHEREAS**, the City Planning Commission filed with the Council on April 3, 2009 its decision dated April 1, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of City Planning for an amendment of the Zoning Resolution of the City of New York,

relating to the creation of an R1-2A Zoning District, Application No. N 090282 ZRY, Citywide, (the "Application");

**WHEREAS**, the Application is related to ULURP Application Number C 090281 ZMQ (Preconsidered L.U. No. 1057), an amendment to the Zoning Map to rezone a 257 Block area of North Flushing in Queens Community Districts 7 and 11;

**WHEREAS**, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

**WHEREAS**, upon due notice, the Council held a public hearing on the Decision and Application on April 20, 2009;

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

**WHEREAS**, the Council has considered the relevant environmental issues and the Negative Declaration which was issued on January 20, 2009 (CEQR No. 09DCP042Q):

#### **RESOLVED:**

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;

Matter in ~~strikeout~~ is to be deleted;

Matter with # # is defined in Section 12-10;

\* \* \* indicates where unchanged text appears in the Zoning Resolution

\* \* \*

#### **Article 1**

#### **General Provisions**

#### **Chapter 1**

#### **Title, Establishment of Controls and Interpretation of Regulations**

\* \* \*

#### **11-12**

#### **Establishment of Districts**

In order to carry out the purposes and provisions of this Resolution, the following districts are hereby established:

#### Residence Districts

R1-1 Single-Family Detached Residence District

R1-2 Single-Family Detached Residence District

R1-2A Single-Family Detached Residence District

\* \* \*

#### **11-335**

#### **Building permits for other construction in R1-2A and R2A Districts**

In R1-2A Districts established on or before (effective date) and R2A Districts established on or after December 20, 2006, if a building permit for other construction has been lawfully issued prior to the date establishing such ~~R2A~~ District, such construction may be continued, notwithstanding the provisions of paragraph (a) of Section 11-332 (Extension of period to complete construction), provided that the Department of Buildings determines that all of the requisite structural framing to perform the work authorized under the permit was completed on or before the date establishing such ~~R2A~~ District. If the Commissioner of Buildings determines that such framing was not complete on such date, the provisions of paragraph (a) of Section 11-332 shall apply.

\* \* \*

#### **Article 1**

#### **Chapter 2**

#### **Construction of Language and Definitions**

\* \* \*



12-10

Definitions

\* \* \*

Floor area

"Floor area" is the sum of the gross areas of the several floors of a #building# or #buildings#, measured from the exterior faces of exterior walls or from the center lines of walls separating two #buildings#. In particular, #floor area# includes:

\* \* \*

(i) floor space used for #accessory# off-street parking spaces provided in any #story# after June 30, 1989:

(1) within #detached# or #semi-detached single-# or #two-family residences# in R1-2A, R2A, R2X, R3, R4 or R5 Districts, except that:

(i) in R2A Districts, #floor area# within such #residences# shall include only floor space in excess of 300 square feet for one such space; and

(ii) in R3, R4A and R4-1 Districts in #lower density growth management areas#, and in all R1-2A Districts, #floor area# within such #residences# shall include only floor space in excess of 300 square feet for one such space and in excess of 500 square feet for two such spaces;

\* \* \*

(o) any other floor space not specifically excluded.

However, the #floor area# of a #building# shall not include:

\* \* \*

(6) floor space used for #accessory# off-street parking spaces provided in any #story#:

(i) up to 200 square feet per required space existing on June 30, 1989, within #residential buildings# in R3, R4 or R5 Districts, and up to 300 square feet for one required space in R2A Districts. However, for #detached# or #semi-detached single-# or #two-family residences# in R3, R4A and R4-1 Districts within #lower density growth management areas#, and in all R1-2A Districts, #floor area# shall not include up to 300 square feet for one ~~required~~ space and up to 500 square feet for two ~~required~~ spaces;

\* \* \*

(8) floor space used for mechanical equipment, except that such exclusion shall not apply in R2A Districts, and in R1-2A, R2X, R3, R4, or R5 Districts, such exclusion shall be limited to 50 square feet for the first #dwelling unit#, an additional 30 square feet for the second #dwelling unit# and an additional 10 square feet for each additional #dwelling unit#. For the purposes of calculating floor space used for mechanical equipment, #building segments# on a single #zoning lot# may be considered to be separate #buildings#;

(9) except in R1-2A, R2A, R2X, R3, R4 and R5 Districts, the lowest #story# (whether a #basement# or otherwise) of a #residential building#, provided that:

(i) such #building# contains not more than two #stories# above such #story#;

\* \* \*

Article II

Chapter 3

Bulk Regulations for Residential Buildings in Residence Districts

\* \* \*

23-12

Permitted Obstructions in Open Space

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In the districts indicated, the following shall not be considered obstructions when located in any #open space# required on a #zoning lot#, except that no portion of such #open space# which is also a required #yard# or #rear yard equivalent#, or is

needed to satisfy the minimum required area or dimensions of a #court#, may contain any obstructions not permitted in such #yard#, #rear yard equivalent# or #court#:

\* \* \*

(e) Parking spaces, off-street, enclosed, #accessory#, not to exceed one space per dwelling unit#, when #accessory# to a #single-family#, #two-family# or three-#family residence#, provided that the total area occupied by a #building# used for such purposes does not exceed 20 percent of the total required #open space# on the #zoning lot#. However, two such spaces for a #single-family residence# may be permitted in #lower density growth management areas# and in R1-2A Districts;

\* \* \*

23-141

Open space and floor area regulations in R1, R2, R3, R4 or R5 Districts

R1 R2 R3 R4 R5

Except as otherwise provided in paragraph (a) of Section 23-147 (For non-profit residences for the elderly), in the districts indicated, the minimum required #open space# or #open space ratio#, the maximum #lot coverage# and the maximum #floor area ratio# for any #building# on a #zoning lot# shall be as set forth in the following tables:

(a)

District	Minimum Required #Open Space Ratio#	Maximum #Floor Area Ratio#
R1 * R2*	150.0	0.50

\* R1-2A, R2A and R2X are subject to the provisions of paragraph (b).

(b)

District	Maximum #Lot Coverage# (in percent)	Minimum Required #Open Space# (in percent)	Maximum Floor Area Ratio#
<u>R1-2A</u>	30	70	.50
R2A	30	70	.50
R2X	governed by #yard# requirements		.85
R3-1 R3-2	35	65	.50
R3A R3X	governed by #yard# requirements		.50
R4	45	55	.75
R4A R4-1	governed by #yard# requirements		.75
R4B	55	45	.90
R5	55	45	1.25
R5A	governed by #yard# requirements		1.10
R5B	55	45	1.35
R5D	60*	40*	2.00

\* For #corner lots#, the maximum #lot coverage# shall be 80 percent and the minimum required #open space# shall be 20 percent.

In addition, the following rules shall apply:

\* \* \*

(4) In R3, R4A and R4-1 Districts within #lower density growth management areas#, and in all R1-2A Districts, the permitted #floor area# of a #single-# or #two-family detached# or #semi-detached residence# may be increased by up to 300 square feet for one parking space and up to 500 square feet for two parking spaces provided such spaces are in a garage located, wholly or partly, in the #side lot ribbon# pursuant to Sections 23-12, paragraph (e), 23-441 or 23-442, except that in R1-2A Districts, such parking spaces need not be located in the #side lot ribbon#.

\* \* \*

**23-22  
Maximum Number of Dwelling Units or Rooming Units**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the maximum number of #dwelling units# or #rooming units# shall equal the maximum #residential floor area# permitted on the #zoning lot# divided by the applicable factor in the following table. In R1 through R5 Districts, no #rooming units# shall be permitted and any #dwelling unit# shall be occupied by only one #family#. Fractions equal to or greater than three-quarters resulting from this calculation shall be considered to be one #dwelling unit# or #rooming unit#.

\* \* \*

**FACTOR FOR DETERMINING MAXIMUM NUMBER OF DWELLING UNITS OR ROOMING UNITS**

District	Factor for #Dwelling Units#	Factor for #Rooming Units#
R1-1	4,750	
R1-2, R1-2A	2,850	
R2, R2A	1,900	

\* \* \*

**23-30  
LOT AREA AND LOT WIDTH REGULATIONS**

\* \* \*

**23-32  
Minimum Lot Area or Lot Width for Residences**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, except as provided in Section 23-33 (Special Provisions for Existing Small Lots), no #residence# is permitted on a #zoning lot# with a total #lot area# or #lot width# less than as set forth in the following table:

**REQUIRED MINIMUM LOT AREA AND LOT WIDTH**

Type of #Residence#	Minimum #Lot Area# (in sq. ft.)	Minimum #Lot Width# (in feet)	District
#Single-family detached#	9,500	100	R1-1
	5,700	60	R1-2 R1-2A
	3,800	40	R2 R2A
	2,850	30	R2X
#Single-# or #two-family detached# or #zero lot line# where permitted	3,800	40	R3-1 R3-2 R4-R10
	3,325	35	R3X
	2,850	30	R4A* R5A

2,375 25 R3A\* R4B R4-1\* R5B R5D

Any other permitted 1,700 18 R3-R10\*

\* \* \*

**23-40  
YARD REGULATIONS**

\* \* \*

**23-45  
Minimum Required Front Yards**

R1 R2 R3 R4 R5

- (a) In the districts indicated, #front yards# shall be provided as set forth in the following table, except that for a #corner lot# in an R1-2 District, one #front yard# may have a depth of 15 feet and, for a #corner lot# in an R3 District, one #front yard# may have a depth of 10 feet.

Front Yard	District
20 feet	R1
20 feet*	R1-2A
15 feet	R2 R2X R3-1 R3-2
15 feet*	R2A
10 feet*	R3A R3X R4-1 R4A R5A
10 feet**	R4 R5
5 feet*	R4B R5B R5D

\* Except as provided in paragraphs (b) and (c) of this Section.

\*\* If the depth of a #front yard# exceeds 10 feet or the #zoning lot# is #developed# pursuant to the optional regulations applicable in a #predominantly built-up area#, the depth of a #front yard# shall be at least 18 feet. However, on a #corner lot#, if one #front yard# has a depth of at least 18 feet, the other #front yard# shall have a depth of at least 10 feet.

Furthermore, if an opening to an #accessory# off-street parking space is located within the #street wall# of a #residential building#, there shall be an open area between the opening and the #street line# which is at least 8 and 1/2 feet in width by 18 feet in depth, except this provision shall not apply in R5D Districts.

R2A R3A R3X R4-1 R4A R4B R5A R5B R5D

- (b) For the purpose of paragraphs (b) and (c) the area between the #street line# and the front building wall of adjacent #buildings# on the same or adjoining #zoning lots# shall be considered adjacent #front yards#.

Except as provided in paragraph (c) of this Section, in the districts indicated, if adjacent #residential buildings# on the same or on adjoining #zoning lots# fronting on the same #street# have #front yards# greater than the minimum set forth in paragraph (a) of this Section, then a #front yard# shall be provided which:

- (1) in R1-2A, R2A, R3A, R3X, R4A, R4-1 or R5A Districts is at least as deep as an adjacent #front yard#; and
- (2) in R4B, R5B or R5D Districts is no deeper than the deepest adjacent #front yard# and no shallower than the shallowest adjacent #front yard#.

However, a #front yard# need not exceed 20 feet in depth, except that in R1-2A Districts, a #front yard# need not exceed 25 feet in depth.

In determining the depth of the adjacent #front yards#, balconies, and projections from the front building wall that do not exceed 33 percent of the aggregate width of the #building#, shall be disregarded.

For new #developments# or #enlargements#, projections into the required #front yard# are permitted provided that the aggregate width of all projections at the level of any #story# does not exceed 33 percent of the aggregate width of the #building#. The depth of such projections shall not exceed three feet into the #front yard#. However, balconies shall be subject to the provisions of Sections 23-13 (Balconies) and 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents).

\* \* \*

**23-461**

**Side yards for single- or two-family residences**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

- (a) In all districts, as indicated, for #single-family detached residences# or, where permitted, for #two-family detached residences#, #side yards# shall be provided as set forth in the table in this paragraph, except that on #corner lots# in R1, R2, R3, R4 and R5 Districts, one #side yard# shall be at least 20 feet in width:

MINIMUM REQUIRED SIDE YARDS

Number Required	Required Total Width (in feet)	Required Minimum Width of any #Side Yard# (in feet)	District
2	35	15	R1-1
2	20	8	R1-2 <u>R1-2A</u>
2	13	5	R2 R2A R3-1 R3-2 R4-R10

\* \* \*

**23-631**

**Height and setback in R1, R2, R3, R4 and R5 Districts**

R1 R2

- (a) In the districts indicated, except R1-2A, R2A and R2X Districts, the front wall or any other portion of a #building or other structure# shall not penetrate the #sky exposure plane# set forth in the following table:

\* \* \*

R1-2A R2A R2X R3 R4 R4A R4-1 R5A

- (b) In the districts indicated, the height and setback of a #building or other structure# shall be as set forth herein except where modified pursuant to paragraphs (h) and (i) of this Section.

For the purposes of this Section, where #base planes# of different elevations apply to different portions of a #building or other structure#, each such portion of the #building# may be considered to be a separate #building#. Furthermore, for the purposes of this Section, #building segments# may be considered to be separate #buildings# and abutting #semi-detached buildings# may be considered to be one #building#.

The perimeter walls of a #building or other structure# are those portions of the outermost walls enclosing the #floor area# within a #building or other structure# at any level and height is measured from the #base plane#. Perimeter walls are subject to setback regulations at a maximum height above the #base plane# of:

21 feet

R2A R2X R3 R4A

25 feet

R1-2A R4 R4-1 R5A

26 feet\*

R3 R4A R4-1 within #lower density growth management areas#

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1059

**Report of the Committee on Land Use in favor of approving Application no. 20095191 SCK, a proposed site for a new, approximately 535 seat Primary School Facility, known as P.S. 160-K Annex, to be located at 1061-1071 52<sup>nd</sup> Street (Block 5653, Lot 55), Council District No. 39, Borough of Brooklyn. This matter is subject to Council review and action pursuant Section 1732 of the New York State Public Authorities Law.**

The Committee on Land Use, to which was referred on April 22, 2009 the annexed Land Use resolution, respectfully

**REPORTS:**

SUBJECT

**BROOKLYN CB - 12**

**20095191 SCK**

Application pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 535-Seat Primary School Facility, known as P.S. 160-K Annex, to be located at 1061 52<sup>nd</sup> Street (Block 5653, Lots 21 (portion) and 55) in Community School District No. 20.

INTENT

To facilitate the development of a new, approximately 535-seat intermediate/high school facility.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Site Plan.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 1951

**Resolution approving the site plan for a new, approximately 410-Seat Primary School Annex Facility to be located at 1061 52<sup>nd</sup> Street (Tax Block 5653, Tax Lots 21(portion) and 55), Borough of Brooklyn (Non-ULURP No. 20095191 SCK; Preconsidered L.U. No. 1059).**

Council Members Katz and Lappin.

**WHEREAS**, the New York City School Construction Authority submitted to the Council on April 16, 2009, a site plan dated April 16, 2009 pursuant to Section 1732 of the New York State Public Authorities Law for a new, approximately 410-Seat Primary School Annex Facility, known as P.S. 160 Annex, Brooklyn, to be located at 1061 52<sup>nd</sup> Street (Tax Block 5653, Tax Lots 21 in portion and 55), Borough of Brooklyn, Community Board No. 12, Borough of Brooklyn, Community School District No. 20 (the "Site Plan");

**WHEREAS**, the Site Plan is subject to review and action by the Council pursuant to Section 1732 of the New York State Public Authorities Law;

**WHEREAS**, upon due notice, the Council held a public hearing on the Site Plan on April 20, 2009;

**WHEREAS**, the Council has considered the relevant environmental issues and the Negative Declaration issued on April 6, 2009 (SEQR Project Number 09-012); and

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Site Plan;

**RESOLVED:**

The Council finds that the action described herein will have no significant effect on the environment.

Pursuant to Section 1732 of the Public Authorities Law, the Council approves the Site Plan.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1060

**Report of the Committee on Land Use in favor of approving Application no. 20095290 SCM, a proposed site for a new, approximately 572-Seat Intermediate/High School Facility, known as Community Health Academy of the Heights located at 1970 Amsterdam Avenue (Block 2116, Lot 33 in portion), Council District no. 7, Borough of Manhattan. This matter is subject to Council review and action pursuant Section 1732 of the New York State Public Authorities Law.**

The Committee on Land Use, to which was referred on April 22, 2009 the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

MANHATTAN CB - 12

20095290 SCM

Application pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 572-Seat Intermediate/High School Facility, known as Community Health Academy of the Heights, Manhattan, to be located at 1970 Amsterdam Avenue (Block 2116, Lot 33 in portion) in Community School District No. 6.

**INTENT**

To facilitate the development of a new, approximately 572-seat intermediate/high school facility.

**Report Summary:**

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Site Plan.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 1952

**Resolution approving the site plan for a new, approximately 572-Seat Intermediate/High School Facility to be located at 1970 Amsterdam Avenue (Tax Block 2116, Tax Lot 33 in portion), Borough of Manhattan (Non-ULURP No. 20095290 SCM; Preconsidered L.U. No. 1060).**

Council Members Katz and Lappin.

**WHEREAS**, the New York City School Construction Authority submitted to the Council on April 16, 2009, a site plan dated April 16, 2009 pursuant to Section 1732 of the New York State Public Authorities Law for a new, approximately 572-Seat Intermediate/High School Facility, known as Community Health Academy of the Heights, to be located at 1970 Amsterdam Avenue (Tax Block 2116, Tax Lot 33 in portion), Borough of Manhattan, Community Board No. 12, Borough of Manhattan, Community School District No. 6 (the "Site Plan");

**WHEREAS**, the Site Plan is subject to review and action by the Council pursuant to Section 1732 of the New York State Public Authorities Law;

**WHEREAS**, upon due notice, the Council held a public hearing on the Site Plan on April 20, 2009;

**WHEREAS**, the Council has considered the relevant environmental issues and the Negative Declaration issued on April 6, 2009 (SEQR Project Number 09-010); and

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Site Plan;

**RESOLVED:**

The Council finds that the action described herein will have no significant effect on the environment.

Pursuant to Section 1732 of the Public Authorities Law, the Council approves the Site Plan.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1061

**Report of the Committee on Land Use in favor of approving Application no. 20095359 HKM (N 090330 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.410, LP-2313) by the Landmarks Preservation Commission of the Consolidated Edison Building, located at 4 Irving Place a.k.a. 2-12 Irving Place, 121-147 East 14<sup>th</sup> Street, 120-140 East 15<sup>th</sup> Street (Block 870, part of Lot 24) Council District no 2.**

The Committee on Land Use, to which was referred on February April 22, 2009 the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CB - 6      20095359 HKM (N 090330 HKM)**

Designation by the Landmarks Preservation Commission (List No. 410/LP-2313) pursuant to Section 3020 of the New York City Charter of the landmark designation of the Consolidated Edison Building, located at 4 Irving Place a.k.a. 2-12 Irving Place, 121-147 East 14<sup>th</sup> Street, 120-140 East 15<sup>th</sup> Street (Block 870, part of Lot 24), as an historic landmark.

*Report Summary:*

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby affirm the designation.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 1953

**Resolution affirming the designation by the Landmarks Preservation Commission of the Consolidated Edison Building, located at 4 Irving Place a.k.a. 2-12 Irving Place, 121-147 East 14<sup>th</sup> Street, 120-140 East 15<sup>th</sup> Street (Tax Map Block 870, Lot 24 in part), Borough of Manhattan, Designation List No. 410, LP-2313 (Preconsidered L.U. No. 1061; 20095359 HKM; N 090330 HKM).**

By Council Members Katz and Lappin.

**WHEREAS**, the Landmarks Preservation Commission filed with the Council on February 17, 2009 a copy of its designation dated February 10, 2008 (the "Designation"), of Consolidated Edison Building, located at 4 Irving Place a.k.a. 2-12 Irving Place, 121-147 East 14<sup>th</sup> Street, 120-140 East 15<sup>th</sup> Street, Community District 6, Borough of Manhattan, as a landmark and Tax Map Block 870, Lot 24 in part, as its landmark site pursuant to Section 3020 of the New York City Charter;

**WHEREAS**, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

**WHEREAS**, the City Planning Commission submitted to the Council on April 3, 2009 its report on the Designation dated April 1, 2009 (the "Report");

**WHEREAS**, upon due notice, the Council held a public hearing on the Designation on April 20, 2009; and

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Designation;

**RESOLVED:**

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1062

**Report of the Committee on Land Use in favor of approving Application no. 20095360 HKM (N 090331 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.410, LP-2294) by the Landmarks Preservation Commission of One Chase Manhattan Plaza, aka 16-48 liberty Street, 26-40 Nassau Street, 28-44 Pine Street, 55-77 William Street (Block 44, Lot1), Council District no 1.**

The Committee on Land Use, to which was referred on April 22, 2009 the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

**MANHATTAN CB - 1      20095360 HKM (N 090331 HKM)**

Designation by the Landmarks Preservation Commission (List No. 410/LP-2294) pursuant to Section 3020 of the New York City Charter of the landmark designation of One Chase Manhattan Plaza, aka 16-48 Liberty Street, 26-40 Nassau Street, 28-44 Pine Street, 55-77 William Street (Block 44, Lot 1), as an historic landmark.

*Report Summary:*

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby affirm the designation.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 1954

**Resolution affirming the designation by the Landmarks Preservation Commission of One Chase Manhattan Plaza, located at 16-48 Liberty Street aka 26-40 Nassau Street, 28-44 Pine Street, 55-77 William Street (Tax Map Block 44, Lot 1), Borough of Manhattan, Designation List No. 410, LP-2294 (Preconsidered L.U. No. 1062; 20095360 HKM; N 090331 HKM).**

By Council Members Katz and Lappin.

**WHEREAS**, the Landmarks Preservation Commission filed with the Council on February 17, 2009 a copy of its designation dated February 10, 2008 (the "Designation"), of One Chase Manhattan Plaza, aka 16-48 Liberty Street, 26-40 Nassau Street, 28-44 Pine Street, 55-77 William Street, Community District 1, Borough of Manhattan, as a landmark and Tax Map Block 44, Lot 1, as its landmark site pursuant to Section 3020 of the New York City Charter;

**WHEREAS**, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

**WHEREAS**, the City Planning Commission submitted to the Council on April 3, 2009 its report on the Designation dated April 1, 2009 (the "Report");

**WHEREAS**, upon due notice, the Council held a public hearing on the Designation on April 20, 2009; and

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Designation;

**RESOLVED:**

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Land Use and have been favorably reported for adoption.

Report for L.U. No. 1063

**Report of the Committee on Land Use in favor of approving Application no. 20095361 HKK (N 090329 HKK), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.410, LP-2309) by the Landmarks Preservation Commission of Alice and Agate Courts Historic District, Council District no 36.**

The Committee on Land Use, to which was referred on April 22, 2009 the annexed Land Use resolution, respectfully

**REPORTS:**

**SUBJECT**

**BROOKLYN CB - 3**

**20095361 HKK (N 090329 HKK)**

Designation by the Landmarks Preservation Commission (List No. 410/LP-2309) pursuant to Section 3020 of the New York City Charter of the landmark designation of Alice and Agate Courts Historic District as an historic district.

Report Summary:

**COMMITTEE RECOMMENDATION AND ACTION**

**DATE:** April 20, 2009

The Committee recommends that the Council approve the attached resolution and thereby affirm the designation.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 1955

**Resolution affirming the designation by the Landmarks Preservation Commission of the Alice and Agate Courts Historic District, Borough of Brooklyn, Designation List No. 410, LP-2309 (Preconsidered L.U. No. 1063; 20095361 HKK; N 090329 HKM).**

By Council Members Katz and Lappin.

**WHEREAS**, the Landmarks Preservation Commission (List 410, LP-2309), filed with the Council on February 17, 2009 a copy of its designation dated February 10, 2009 (the "Designation"), pursuant to Section 3020 of the New York City Charter of the Alice and Agate Courts Historic District. The district boundaries are: property bounded by a line beginning at the intersection of the northern curblin of Atlantic Avenue and a line extending southerly from the western property line of 1 Alice Court (aka 1463 Atlantic Avenue), continuing easterly along said curblin to a point formed by its intersection with a line extending southerly from the eastern property line of 2 Agate Court (aka 1491 Atlantic Avenue), northerly along said line and the eastern property lines of 2 through 18 Agate Court, westerly along the northern property line of 18 Agate Court, continuing westerly along a line extending from the northern property line of 18 Agate Court to the northern property line of 17 Agate Court, along the northern property lines of 17 Agate Court and 18 Alice Court, continuing westerly along a line extending from the northern property line of 18 Alice Court to the northern property line of 17 Alice Court, along the northern property line of 17 Alice Court, to the western property line of 17 Alice Court, southerly along said property line and the property lines of 15 through 1 Alice Court, to the point of the beginning. The boundary description is intended to encompass the wall along the northern edge of Agate Court between lot 72 and 74, as an historic district, Community District 3, Borough of Brooklyn;

**WHEREAS**, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

**WHEREAS**, the City Planning Commission submitted to the Council on April 3, 2009 its report on the Designation dated April 1, 2009 (the "Report");

**WHEREAS**, upon due notice, the Council held a public hearing on the Designation on April 20, 2009; and

**WHEREAS**, the Council has considered the land use implications and other policy issues relating to the Designation;

**RESOLVED:**

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ERIC N. GIOIA, JOHN C. LIU, MIGUEL MARTINEZ, LARRY B. SEABROOK, HELEN SEARS, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, April 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

**Report of the Committee on Parks and Recreation**

Report for Int. No. 896-A

**Report of the Committee on Parks and Recreation in favor of approving, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring signage warning of heat dangers of playground equipment including safety surfacing.**

The Committee on Parks and Recreation, to which was referred on December 18, 2008 (Minutes, page 7465) the annexed amended proposed local law, respectfully

**REPORTS:**

**INTRODUCTION**

The Committee on Parks and Recreation will hold a hearing on April 22, 2009, to consider Proposed Int. No. 896-A which deals with the issues regarding the safety of playground equipment and safety surface materials.

**BACKGROUND**

Proposed Int. No. 896-A

There have been reports of the dangers to small children from the heat of not only playground mats but also playground equipment, in general.<sup>37</sup> Recently, the Parks Department (DPR) has placed signs in playground warning of such heat dangers. However, advocates have argued that there is a need for legislation to mandate such warnings.<sup>38</sup>

Proposed Int. No. 896-A would add a new section 18-135 to Chapter one of Title 18 of the Administrative Code to require the installation of signs warning of the dangers of excessive heat in equipment and playground mats. It would mandate that all such signs be placed by all entrances to playgrounds where there are no signs requiring that shoes be worn at playgrounds. In addition, these signs are also required to be installed when a sign is replaced at a playground. All signs will be written in English and in additional languages as determined by DPR appropriate to the specific users of a playground.

Proposed Int. No. 896-A would take effect forty five (45) days after enactment.

**(The following is from the text of the Fiscal Impact Statement for Int. No. 896-A:)**

**FISCAL IMPACT STATEMENT:**

	Effective FY 09	FY Succeeding Effective FY 10	Full Fiscal Impact FY 09
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	(\$93,600)	\$0	(\$93,600)
Net	(\$93,600)	\$0	(\$93,600)

**IMPACT ON REVENUES:** There would be no impact on revenues resulting from the enactment of this legislation.

**IMPACT ON EXPENDITURES:** This legislation would cost \$93,600 for the acquisition and installation of three warning signs costing \$26 each at approximately 1,200 parks under the jurisdiction of the Parks Department.

**SOURCE OF FUNDS TO COVER ESTIMATED COSTS:** General Fund

**SOURCE OF INFORMATION:** Mayor's Office of Legislative Affairs

**ESTIMATE PREPARED BY:** Jonathan Rosenberg, Deputy Director

for the Lower Ma\_\_\_\_\_

<sup>37</sup> Sewell Chan, "Are Playground Safety Mats Too Hot to Handle," The New York Times, July 21, 2008.

<sup>38</sup> New York CBS, "Dangerous Flaw Found In Protective Playground Mats," July 27, 2007.

Walter Pitts, Legislative Financial Analyst

**HISTORY:** This legislation was introduced by Council and referred to the Committee on Parks and Recreation on December 18, 2008. The Committee on Parks and Recreation held a hearing on Intro. 896 on February 9, 2009 and the legislation was laid. The legislation has been amended and will be considered by the Committee on April 22, 2009 as Proposed Intro. 896-A.

Accordingly, Your Committee recommends its adoption, as amended.

**(The following is the text of Int. No. 896-A:)**

Int. No. 896-A

By Council Members de Blasio, Lappin, Barron, Brewer, Gerson, Gonzalez, James, White, Jackson, Gennaro, Liu, Mitchell, Weprin and The Public Advocate (Ms. Gotbaum).

**A Local Law to amend the administrative code of the city of New York, in relation to requiring signage warning of heat dangers of playground equipment including safety surfacing.**

*Be it enacted by the Council as follows:*

Section 1. Chapter 1 of Title 18 of the administrative code of the city of New York is hereby amended by adding a new section 18-135 to read as follows:

*§18-135 Requiring signage warning of heat dangers of playground equipment. The department shall place at all entrances to all playgrounds operated by or under the jurisdiction of the department, including those for which the department has an agreement with a conservancy or other not-for-profit organization with respect to operation of any aspect of a playground a sign reading, "Warning: Some surfaces may become hot. Please take precautions with exposed skin."*

*Such signs shall be placed at all entrances of all playgrounds where presently there is not a sign at all entrances warning that shoes are required to be worn in such playground. Such signs shall also be placed at the entrances to all other playgrounds upon replacement of a sign in any such playground warning that shoes are required to be worn. All signs shall be securely affixed at such entrances. The above described warning shall also be placed on every sign in any playground stating the rules of such playground when any such sign is replaced. All signs shall be in English and, where appropriate, additional languages. For purposes of this section, "securely affixed" shall mean that at a minimum the signs shall be tethered to not less than two stationary fixtures.*

§2. This local law shall take effect forty-five days after enactment, except that the commissioner of parks and recreation shall take all steps necessary to implement this local law prior to such effective date.

HELEN D. FOSTER, Chairperson; ALAN J. GERSON, HELEN SEARS, LETITIA JAMES, ELIZABETH CROWLEY, Committee on Parks and Recreation, April 22, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

**Reports of the Committee on Rules, Privileges and Elections**

Report for M-1353

**Report of the Committee on Rules, Privileges and Elections in favor of approving the re-appointment by the Mayor of Betty Y. Chen as a member of the New York City Planning Commission.**

The Committee on Rules, Privileges and Elections, to which was referred on March 24, 2009 (Minutes, page 787) the annexed communication, respectfully

**REPORTS:**

**Topic I: New York City Planning Commission – (Mayoral nominee for re-appointment upon advice and consent of the Council)**

• **Betty Y. Chen [M-1353]**

Section 192 of the *New York City Charter* (“Charter”) states that there shall be a thirteen-member CPC, with seven appointments made by the Mayor (including the Chair), one by the Public Advocate, and one by each Borough President. All members, except the Chair, are subject to the advice and consent of the Council. Further, the *Charter* states that members are to be chosen for their independence, integrity, and civic commitment.

The *Charter* provides that CPC members serve for staggered five-year terms, except for the Chair, who as Director of the Department of City Planning (*Charter* section 191), serves at the pleasure of the Mayor. For purposes of Chapter 68 (Conflicts of Interest) of the *Charter*, CPC members, other than the Chair, shall not be considered regular employees of the City. There is no limitation on the number of terms that a CPC member may serve. CPC members are prohibited from holding any other City office while they serve on CPC. The Chair receives an annual salary of \$181, 719. The member who is designated as Vice-Chair receives an annual salary of \$57, 573. The other members receive an annual salary of \$50, 064.

CPC is responsible for:

- undertaking long-range planning for the City’s orderly growth, improvement and future development, including appropriate resources for housing, business, industry, recreation and culture;
- assisting the Mayor and other officials in developing the ten-year capital strategy, the four-year capital program and the annual *Statement of Needs*;
- overseeing and coordinating environmental reviews under the *City Environmental Quality Review* (“CEQR”), as mandated by state law (*Environmental Conservation Law* – Article 8);
- preparing a zoning and planning report at least once every four years, which includes a review of the *Zoning Resolution*, with any recommendations for changes and proposals for implementing planning policies; and
- approving or disapproving the acquisition by the City of office space.

CPC has also promulgated rules:

- establishing minimum standards for certifying *Uniform Land Use and Review Procedure* (“ULURP”) applications and specific time periods for pre-certification review;
- creating capital site selection criteria;
- setting minimum standards for the form and content of plans for the development of the City and boroughs; and
- defining “major concessions.”

Ms. Chen is scheduled to appear before the Committee on Rules, Privileges, and Elections on April 22, 2009. Upon re-appointment by the Mayor with the advice and consent of the Council, Ms. Chen, a resident of Manhattan, will be eligible to serve for the remainder of a five-year term that expires on June 30, 2013. A copy of Ms. Chen’s résumé and report/resolution is annexed to this Briefing paper.

**Topic II: New York City Civil Service Commission – (Mayoral nominee for appointment upon advice and consent of the Council)**

• **Nancy G. Chaffetz [M-1354]**

*New York City Charter* (“Charter”) § 813 (d) provides for a Civil Service Commission (“CSC”) to hear and determine appeals by any person aggrieved by an action of the Commissioner of the New York City Department of Citywide Administrative Services (“DCAS”).<sup>1</sup> CSC may affirm, modify or reverse such action or determination. Any such appeal is taken by application in writing to CSC within thirty days after the action or determination appealed from. CSC is also vested with the powers and responsibilities of a municipal civil service commission

under New York Civil Service Law § 26. Moreover, CSC is authorized to promulgate rules of procedure, including rules establishing time schedules, for authorized hearings and determinations.<sup>2</sup> CSC, upon its own initiative, or upon request of the Mayor, Council or DCAS Commissioner, has the power and duty to conduct reviews, studies or analyses of the administration of personnel in the city, including classification of titles by the DCAS Commissioner. *Charter* § 813(e). CSC is also required to prepare and transmit directly to the Mayor departmental estimates. The Mayor includes these proposed appropriations for CSC as a separate agency in the preliminary and executive budgets to assure sufficient funding for CSC to fulfill the obligations assigned to it by the *Charter* or other law. *Charter* § 813 (b).

CSC consists of five members, not more than three of whom may be members of the same political party.<sup>3</sup> The members of CSC are appointed by the Mayor from a list of nominations provided by a six member Screening Committee,<sup>4</sup> of whom four members are appointed by the Mayor and two by the Municipal Labor Committee. The Screening Committee submits the list of nominees upon the occurrence of a vacancy on CSC, or at least three months prior to the expiration of the term of an incumbent member. *Charter* § 813(b).

Members of CSC are appointed to six-year terms, and may be removed from office in the manner provided for the members of a municipal Civil Service Commission outlined in the *New York State Civil Service Law*. The Mayor designates a member of CSC as Chair and Vice Chair, respectively, for one-year terms. Members are reimbursed on a per-diem basis for attendance at regularly scheduled meetings and hearings of CSC. *Charter* § 813 (a). According to the New York City Payroll Management System, the Chair receives \$ 387.17 per-diem, while the Vice Chair and the remaining members each receive \$ 355.50 per-diem.

CSC appoints a Counsel, who may not be employed or retained by another City agency, and may appoint a Secretary and such other subordinates as may be necessary, within the appropriation therefor. *Charter* § 813(c).

Ms. Chaffetz is scheduled to appear before the Committee on Rules, Privileges and Elections on Wednesday, April 22, 2009. If appointed, Ms. Chaffetz, a resident of Manhattan, and a registered member of the Republican Party, will be eligible to complete the remainder of a six-year term, which expires on March 21, 2011. Ms. Chaffetz will succeed David Lande. A copy of Ms. Chaffetz’s résumé and report/resolution is annexed to this Briefing paper.

**Topic III: New York City Board of Correction – (Council nominee for direct appointment)**

• **Robert L. Cohen, M.D. [Pre-considered M-1414]**

The New York City Department of Correction (“DOC”) provides for the care, custody and control of persons accused or convicted of crimes and sentenced to one year or less jail time. DOC manages 15 inmate facilities, 10 of which are on Riker’s Island, handles more than 100,000 admissions each year, and manages an average daily inmate population of approximately 14,000 individuals. *Preliminary Mayor’s Management Report for February 2009*. The New York City Board of Correction (“BOC”) oversees DOC’s operations and evaluates agency performance. Pursuant to *New York City Charter* (“Charter”) §§ 626(c), 626(e), 626(f), BOC, or by written designation of the BOC, any member of it, the executive Director<sup>5</sup>, or other employee, shall have the power and duty to:

- inspect and visit all institutions and facilities under the jurisdiction of DOC at any time;
- inspect all records of DOC;
- prepare and submit to the Mayor and to the Council, and the DOC Commissioner, proposals for capital planning and improvements, studies and reports concerned with the development of DOC’s correctional program planning, and studies and reports in regard to the methods of promoting closer cooperation of custodial, probation and parole agencies of government and the courts;
- evaluate DOC performance;
- establish minimum standards for the care, custody, correction, treatment, supervision, and discipline of all persons held or confined under the jurisdiction of DOC; and to
- establish procedures for the hearing of grievances and complaints or requests for assistance by or on behalf of any person held or confined by DOC or by any employees of DOC.

BOC is composed of nine members. Three members are appointed by the Mayor, three by the Council, and three by the Mayor on the nomination jointly by the presiding justices of the Appellate Division of the Supreme Court for the first and Second Judicial Departments. Appointments are made by the three respective appointing authorities on a rotating basis to fill any vacancy. Members are appointed to a term of six-years, and vacancies are filled for the remainder of the unexpired term. The Mayor designates the Chair of BOC from among its members from time to time. The Mayor may remove members for cause after a hearing at which they shall be entitled to representation by Counsel. *Charter* § 626(b).



Although BOC members receive no compensation, they may, however, be reimbursed for expenses incurred in the performance of their duties. *Charter § 626(a)*.

BOC is required to adopt rules to govern its own proceedings. *Charter § 626(b)*. Within the scope of its authority, BOC may compel the attendance of witnesses, require the production of books, accounts, papers, and other evidence, administer oaths, examine persons, and conduct public or private hearings, studies and investigations. Also, BOC may institute proceedings in a court of appropriate jurisdiction to enforce its subpoena power and other authority. *Charter § 626(g)*.

On an annual basis, and at such other times as it may determine, BOC submits to the Mayor, the Council and the DOC Commissioner, reports, findings and recommendations in regard to matters within its jurisdiction. *Charter § 626(d)*. Members of the Council are authorized to inspect and visit at anytime the institutions and facilities under the jurisdiction of DOC. *Charter § 627*.

Dr. Cohen is scheduled to appear before the Committee on Rules, Privileges and Elections on Wednesday, April 22, 2009. If appointed by the Council, Dr. Cohen, a resident of Manhattan, will serve the remainder of a six-year term that will expire on October 12, 2011. Mr. Cohen will succeed Paul Vallone. A copy of Dr. Cohen's résumé and report/resolution is annexed to this Briefing paper.

<sup>1</sup> The Commissioner of DCAS is responsible for citywide personnel matters. [Charter § 811.]

<sup>2</sup> CSC has established rules of procedure, which appear in Chapter 2 of Title 60 of the Rules of the City of New York.

<sup>3</sup> CSC currently constitutes the following: Simon Gourdine, Chair (Democrat), David Lande, Vice-Chair, (Republican), Rudy Washington (Republican), Jose Maldonado (Democrat), and Nicholas LaPorte (Democrat).

<sup>4</sup> The "list of nominees shall include persons with knowledge or experience of the civil service system, or personnel management, or compensation practices, from which the Mayor shall make appointments to the Civil Service Commission." *Charter § 813 (b)*.

<sup>5</sup> BOC may appoint an Executive Director to serve at its pleasure with such duties and responsibilities as BOC may assign, and other professional, clerical, and support personnel within appropriations for such purpose. DOC's Commissioner shall designate such of DOC's stenographic, clerical and other assistance to BOC as may be necessary for the proper performance of its functions. *Charter § 626(b)*.

*After interviewing the candidate and reviewing the relevant material, the Committee decided to approve the appointment of the nominees.*

*(For nominee Nancy G. Chaffetz and Robert Cohen, M.D., please see the Report of the Committee on Rules, Privileges and Elections for, respectively, M-1354 & Res 1957 and M-1414 & Res 1958 printed in these Minutes; for nominee Betty Y. Chen, see immediately below.)*

The Committee on Rules, Privileges and Elections which was referred to on April 2, 2009, respectfully reports:

Pursuant to §§ 31 and 192(a) of the New York City Charter, the Committee on Rules, Privileges and Elections, hereby approves the re-appointment by the Mayor of BETTY Y. CHEN as a member of the New York City Planning Commission to serve for the remainder of a five-year term expiring on June 30, 2013.

In connection herewith, Council Member Reyna offered the following resolution:

Res. No. 1956

**Resolution approving the re-appointment by the Mayor of Betty Y. Chen as a member of the New York City Planning Commission.**

By Council Member Reyna.

**RESOLVED**, that pursuant to §§ 31 and 192(a) of the New York City Charter, the Council does hereby approve the re-appointment by the Mayor of Betty Y. Chen as a member of the New York City Planning Commission for a term expiring on June 30, 2013.

DIANA REYNA, Chairperson; LEROY G. COMRIE, ERIK MARTIN DILAN, LEWIS A. FIDLER, MELINDA R. KATZ, DAVID I. WEPRIN, VINCENT J. GENTILE, INEZ E. DICKENS, DANIEL R. GARODNICK, JAMES S. ODDO, CHRISTINE C. QUINN, Committee on Rules, Privileges and Elections, April 22, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for M-1354

**Report of the Committee on Rules, Privileges and Elections in favor of approving the appointment by the Mayor of Nancy G. Chaffetz as a Commissioner of the New York City Civil Service Commission.**

The Committee on Rules, Privileges and Elections, to which was referred on March 24, 2009 (Minutes, page 787) the annexed communication, respectfully

**REPORTS:**

**(For text of the Briefing Paper, please see the Report of the Committee on Rules, Privileges and Elections for M-1353).**

The Committee on Rules, Privileges and Elections respectfully reports:

Pursuant to §§ 31 and 813 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the appointment by the Mayor of Nancy G. Chaffetz as a Commissioner of the New York City Civil Service Commission to serve for the remainder of a six-year term expiring on March 21, 2011.

The matter was referred to the Committee on April 2, 2009

In connection herewith, Council Member Reyna offered the following resolution:

Res. No. 1957

**Resolution approving the appointment by the Mayor of Nancy G. Chaffetz, as a commissioner of the New York City Civil Service Commission.**

By Council Member Reyna.

**RESOLVED**, that pursuant to §§ 31 and 813 of the *New York City Charter*, the Council does hereby approve the appointment by the Mayor of Nancy G. Chaffetz as a Commissioner of the New York City Civil Service Commission for the remainder of a six-year term expiring on March 21, 2011.

DIANA REYNA, Chairperson; LEROY G. COMRIE, ERIK MARTIN DILAN, LEWIS A. FIDLER, MELINDA R. KATZ, DAVID I. WEPRIN, VINCENT J. GENTILE, INEZ E. DICKENS, DANIEL R. GARODNICK, JAMES S. ODDO, CHRISTINE C. QUINN, Committee on Rules, Privileges and Elections, April 22, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point, the Speaker (Council Member Quinn) announced that the following items have been **preconsidered** by the Committee on Rules, Privileges and Elections and have been favorably reported for adoption.

Report for M-1414

**Report of the Committee on Rules, Privileges and Elections in favor of approving the appointment by the Council of Robert Cohen, M.D. as a member of the New York City Board of Corrections.**

The Committee on Rules, Privileges and Elections, to which was referred on April 22, 2009, the annexed communication, respectfully

**REPORTS:**

(For text of the Briefing Paper, please see the Report of the Committee on Rules, Privileges and Elections for M-1353).

The Committee on Rules, Privileges and Elections which was referred to on April 22, 2009, respectfully reports:

Pursuant to § 626 of the New York City Charter, the Committee on Rules, Privileges and Elections, hereby approves the appointment by the Council of Robert Cohen, M.D. as a member of the New York City Board of Correction to serve for a term expiring on October 12, 2011.

In connection herewith, Council Member Reyna offered the following resolution:

Res. No. 1958

**Resolution approving the appointment by the Council of Robert Cohen, M.D. as a member of the New York City Board of Correction.**

By Council Member Reyna

**RESOLVED**, that pursuant to § 626 of the New York City Charter, the Council does hereby approve the appointment of Robert Cohen, M.D. as a member of the New York City Board of Correction for a term expiring on October 12, 2011.

In connection herewith, Council Member Reyna offered the following resolution:

DIANA REYNA, Chairperson; LEROY G. COMRIE, ERIK MARTIN DILAN, LEWIS A. FIDLER, MELINDA R. KATZ, DAVID I. WEPRIN, VINCENT J. GENTILE, INEZ E. DICKENS, DANIEL R. GARODNICK, JAMES S. ODDO, CHRISTINE C. QUINN, Committee on Rules, Privileges and Elections, April 22, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

**GENERAL ORDER CALENDAR**

**Resolution approving various persons Commissioners of Deeds**

**By the Presiding Officer –**

**Resolved**, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

*Approved New Applicant's Report*

<u>Name</u>	<u>Address</u>	<u>District #</u>
Noemi Aviles	97 Arden Street #3L New York, NY 10040	10
Lauren Bellino	168 Colon Avenue Staten Island, NY 10308	51
Lisa Mehr	41 Daffodil Court Staten Island, NY 10312	51
David Nortega	35 Dodworth Street #3 Brooklyn, NY 11221	34

Larisa Prizimenter	1925 Quinten Road #3D Brooklyn, NY 11229	48
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*Approved New Applicants and Reapplicants*

Lynette Aguayo	5 Ten Eyck Street #3 Brooklyn, NY 11206	34
Erik C. Lopez	410 South 4th Street Brooklyn, NY 11211	34
Eduardo Alayon	2081 Cruger Avenue # 1 F Bronx, NY 10462	13
Carmine Desalvo	2048 Eastchester Road Bronx, NY 10462	13
Milagros Escabi	1732 St. Peters Avenue Bronx, NY 10461	13
Blanche Hardigan	2350 Tieman Avenue Bronx, NY 10469	13
Dolores A. Bannon	1100 Clove Road #6K Staten Island, NY 10301	49
Monique A. Debs-Fonte	55 Franklin Avenue Staten Island, NY 10301	49
Joyce Ingber	501 Jewett Avenue Staten Island, NY 10302	49
Lynn Ann Rogers	158 Myrtle Avenue Staten Island, NY 10310	49
Marvin Rosen	501 Jewett Avenue Staten Island, NY 10302	49
Barbara Rogers Ward	70 New Lane #2GG Staten Island, NY 10305	49
Lisa M. Benitez	99-06 58th Avenue #4A Queens, NY 11368	25
Demetrias Gamble	98-38 57th Avenue #12M Queens, NY 11368	25
Noemi Ortiz	61-35 98th Street #5G Rego Park, NY 11374	25
Phyllis Brown	88 Fenimore Street Brooklyn, NY 11225	40
Ereka Carrington	415 Lefferts Avenue Brooklyn, NY 11225	40
Elizabeth Bruno-Lopez	185 East 163rd Street #1C Bronx, NY 10451	17
Christine Sykes	1131 Longfellow Avenue Bronx, NY 10459	17
Paul Carisle	641 East 92nd Street Brooklyn, NY 11236	42
John Foster Jr.	250 Wortman Avenue #8F Brooklyn, NY 11207	42
Shondel O. Garnett	9215 Avenue A Brooklyn, NY 11236	42
Irma Mojica	525 Crescent Street Brooklyn, NY 11208	42
Lorraine Catalano	30 Cornelia Street #19 New York, NY 10014	3
Phyllis Connors	144-33 231 Street Rosedale, NY 11413	31
Tracy N. Dash	179-59 Anderson Road Jamaica, NY 11434	27
Erlene Juanita Lynch	109-49 167th Street Queens, NY 11433	27
Mary Ann De Nigris	146-23 59th Avenue Flushing, NY 11355	20
Jacie Depaulis	2230 Andrews Avenue Bronx, NY 10453	14
Nubia Imani-Beazer	7 Fordham Hill Oval Bronx, NY 10468	14
John A. Devlin	205 West 95th Street New York, NY 10025	6
Sandy Espinal	810 Soundview Avenue #13D	18

**COUNCIL MINUTES — STATED MEETING**

**April 22, 2009  
CC131**

Yvette Wheeler	Bronx, NY 10473 820 Boynton Avenue #10G	18
Stuart M. Feuerstein	Bronx, NY 10473 1247 East 66 Street	46
Joylynn Jarvis	Brooklyn, NY 11234 1314 East 51st Street	46
Patricia Leeke	Brooklyn, NY 11234 1280 East 104th Street	46
Stephen Moran	Brooklyn, NY 11236 3712 Shore Parkway	46
Michael Figura	Brooklyn, NY 11325 476 Clinton Avenue #4C	35
Delia M. Hunley-Adossa	Brooklyn, NY 11238 170 South Portland Avenue #2B	35
Avernell Joseph	Brooklyn, NY 11217 15 Crown Street #1H	35
Clark J. Simmons	Brooklyn, NY 11225 115 Ashland Place #2D	35
Steven E. Johnson, Jr.	Brooklyn, NY 11201 1309 5th Avenue #35C	9
Linda Fay McCoy	New York, NY 10029 410 St Nicholas Avenue #23J	9
Milagros Perez	New York, NY 10027 2949 8th Avenue #5D	9
Irma R. Kramer	New York, NY 10039 1083 East 21st Street	48
Mary Ann Marando	Brooklyn, NY 11210 2292 East 24th Street	48
Tatyana Nekhlyudov	Brooklyn, NY 11229 4077 Ocean Avenue	48
Sonia I. Leyro	Brooklyn, NY 11235 1195 East 229th Street	12
Sheila M. McPherson/Grierson	Bronx, NY 10466 3318 Eastchester Road	12
Marcia E. McGann	Bronx, NY 10469 3468 Fenton Avenue #3B	12
Sophie M. Quinones	Bronx, NY 10469 4028 Barnes Avenue	12
Kelly McCord	Bronx, NY 10466 61-10 173rd Street	24
Fran Oliva	Queens, NY 11365 2150 71st Street #3A	44
Marie Dominique Pierre-Jean	Brooklyn, NY 11204 626 Riverside Drive	7
Floree Roberson	New York, NY 10031 626 Riverside Drive #22A	7
Gladys Ramirez	New York, NY 10031 2165 Prospect Avenue	15
Marlyn S. Robinson	Bronx, NY 10457 155 East 47th Street	4
Louiselle Romero	New York, NY 10017 1646 First Avenue #16C	5
Polly Schonfeld	New York, NY 10028 63 Avenue A #19H	2
Hans G. Seidmann	New York, NY 10009 112-24 68 Avenue	29
Fred Solivan	Flushing, NY 11375 33-52 Crescent Street	22
Marilyn Soto	Queens, NY 11106 84-26 88th Street #2	30
Andrew Toney	Queens, NY 11421 213 Herzl Street	41
Laurie Warren-Guido	Brooklyn, NY 11212 87 Cloister Place	50
Linda Whitaker	Staten Island, NY 10306 1096 Park Place	36
Hughes J. William	Brooklyn, NY 11213 1310 East 37th Street	45

Maria-Cynthia Wong	114-36 125 Street So. Ozone Park, NY 11420	28
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On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

**ROLL CALL ON GENERAL ORDERS FOR THE DAY  
(Items Coupled on General Order Calendar)**

- |      |                                   |  |
|------|-----------------------------------|--|
| (1)  | <b>M 1353 &amp; Res 1956 -</b>    | <b>Betty Y. Chen</b> - as a member of the New York City Planning Commission.   |
| (2)  | <b>M 1354 &amp; Res 1957 -</b>    | <b>Nancy G. Chaffetz</b> - As a Commissioner of the New York City Civil Service Commission.  |
| (3)  | <b>M 1388 &amp; Res 1938 -</b>    | Transfer City funds between various agencies in Fiscal Year 2009. <b>(MN-3)</b>  |
| (4)  | <b>M 1389 &amp; Res 1939 -</b>    | Reduce the City's General Reserve to reflect a reduction in City revenues in Fiscal Year 2009 in the amount of \$136.8 million. <b>(MN-4)</b>                |
| (5)  | <b>M 1414 &amp; Res 1958 -</b>    | <b>Robert Cohen, M.D.</b> - as a member of the New York City Board of Correction.  |
| (6)  | <b>Int 21-A -</b>                 | Developing a comprehensive program for the remediation and reuse of brownfields.   |
| (7)  | <b>Int 896-A -</b>                | Requiring signage warning of heat dangers of playground mats.  |
| (8)  | <b>Int 937-A -</b>                | Requiring the commissioner of the department of correction to report on census data and security indicators involving adolescents in city jails.             |
| (9)  | <b>Res 1928 -</b>                 | Resolution finding that the enactment of Proposed Int. No. 21-A does not have a significant adverse impact on the environment.                               |
| (10) | <b>Res 1934 -</b>                 | Approving the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2008 and Fiscal 2009 Expense Budgets. |
| (11) | <b>Res 1936 -</b>                 | Resolution supporting New York City's application for funding for capital projects.  |
| (12) | <b>L.U. 974 &amp; Res 1940 -</b>  | App. <b>20095235 HAM</b> , UDAADP, known as the Bradhurst Cluster, Council Districts no. 7 and 9, Borough of Manhattan.                                      |
| (13) | <b>L.U. 986 &amp; Res 1941 -</b>  | App. <b>20095297 HAM</b> , UDAAP, 308 East 120th Street, Council District no. 8, Borough of Manhattan.   |
| (14) | <b>L.U. 1038 &amp; Res 1942 -</b> | App. <b>N 090191 ZRY</b> concerning the establishment of regulations pertaining to indoor, secure bicycle parking.   |
| (15) | <b>L.U. 1040 &amp; Res 1943 -</b> | App. <b>20095066 TCM</b> , EAE Corp., unenclosed sidewalk café located at 94 Avenue A, Manhattan, Council District no. 2.                                    |
| (16) | <b>L.U. 1042 &amp; Res 1944 -</b> | App. <b>20095084 TCM</b> , La Goulue Restaurant, Inc., unenclosed sidewalk café 746 Madison Avenue, Manhattan, CD 4.   |
| (17) | <b>L.U. 1051 &amp; Res 1945 -</b> | App. <b>C 090132 ZMM</b> , establishing within an existing R8 District a C2-5 District.  |
| (18) | <b>L.U. 1052 &amp; Res 1946 -</b> | App. <b>C 070396 ZMK</b> , ESP Group LLC, District and establishing within the proposed R7A District a C2-4 District.  |
| (19) | <b>L.U. 1055 &amp; Res 1947 -</b> | ULURP, app. <b>C 090227 HAK</b> , UDAAP, disposition of the city-owned property, Brooklyn, CD 37.  |
| (20) | <b>L.U. 1056 &amp; Res 1948 -</b> | App. <b>N 090239 ZRY</b> special Regulations Applying in the Waterfront Area.  |
| (21) | <b>L.U. 1057 &amp; Res 1949 -</b> | App. <b>C 090281 ZMQ</b> amendment of the Zoning Map, Section No. 7d, 11a and 11c.   |
| (22) | <b>L.U. 1058 &amp; Res 1950 -</b> | App. <b>N 090282 ZRY</b> relating to the creation of an R1-2A Zoning District.   |
| (23) | <b>L.U. 1059 &amp; Res 1951 -</b> | App. <b>20095191 SCK</b> , 535 seat Primary School Facility, Council District No. 39, Brooklyn.  |
| (24) | <b>L.U. 1060 &amp; Res 1952 -</b> | App. <b>20095290 SCM</b> , 572-Seat Intermediate/High School Facility, Council   |

- District no. 7, Manhattan.
- (25) L.U. 1061 & Res 1953 - App. 20095359 HKM Consolidated Edison Building, (Block 870, part of Lot 24) Council District no 2.
- (26) L.U. 1062 & Res 1954 - App. 20095360 HKM One Chase Manhattan Plaza, (Block 44, Lot1), Council District no 1.
- (27) L.U. 1063 & Res 1955 - App. 20095361 HKK Alice and Agate Courts Historic District, Council District no 36.
- (28) Resolution approving various persons Commissioners of Deeds.

The Public Advocate (Ms. Gotbaum) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

**Affirmative** —Arroyo, Avella, Barron, Brewer, Comrie, Crowley, DeBlasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Martinez, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – 48.

The General Order vote recorded for this Stated Meeting was 48-0-0 as shown above with the exception of the votes for the following legislative items:

The following was the vote recorded for M-1388 & Res No. 1938 and M-1389 & Res No. 1939:

**Affirmative** —Arroyo, Avella, Barron, Brewer, Comrie, Crowley, DeBlasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Martinez, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Sears, Stewart, Ulrich, Vacca, Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – 47.

**Negative** – Vallone, Jr. – 1.

The following was the vote recorded for LU No. 1038 & Res No. 1942:

**Affirmative** —Arroyo, Avella, Barron, Brewer, Comrie, Crowley, DeBlasio, Dickens, Dilan, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Martinez, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – 47.

**Negative** – Felder – 1.

The following was the vote recorded for LU No. 1056 & Res No. 1948:

**Affirmative** —Arroyo, Avella, Barron, Brewer, Comrie, Crowley, DeBlasio, Dickens, Dilan, Eugene, Felder, Ferreras, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Martinez, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – 47.

**Negative** – Fidler – 1.

The following was the vote recorded for Int No. 896-A:

**Affirmative** —Arroyo, Avella, Barron, Brewer, Comrie, Crowley, DeBlasio, Dickens, Dilan, Eugene, Ferreras, Felder Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, James, Katz, Koppell, Lappin, Liu, Martinez, Mealy, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – 46.

**Negative** — Mark-Viverito and Mendez - 2.

*The following three Introductions were sent to the Mayor for his consideration and approval: Int Nos. 21-A, 896-A, and 937-A.*

For **Introduction and Reading of Bills**, see the material following the **Resolutions** section below:

## RESOLUTIONS

*Presented for voice-vote*

**The following are the respective Committee Reports for each of the Resolutions referred to the Council for a voice-vote pursuant to Rule 8.50 of the Council:**

Report for voice-vote Res. No. 1595-A

**Report of the Committee on Immigration in favor of approving, as amended, a Resolution supporting H.R. 144, which urges the U.S. government to designate nationals of Haiti eligible for Temporary Protected Status under section 244 of the Immigration and Nationality Act.**

The Committee on Immigration, to which was referred on September 4, 2008 (Minutes, page 5982) the annexed amended resolution, respectfully

## REPORTS:

### Introduction

On Monday, April 20, 2009, at 1:00 pm, the Committee on Immigration will hold a hearing on Proposed Res. No. 1595-A, a Resolution supporting H.R. 144 which urges the U.S. government to designate nationals of Haiti eligible for Temporary Protected Status under section 244 of the Immigration and Nationality Act. Those invited to testify include the Mayor's Office of Immigrant Affairs, interested community-based organizations and members of the public.

### Background

The United States government provides aid to those countries that suffer from severe political upheaval, widespread violence or natural disasters in the form of temporary protected status or TPS. TPS protects eligible nationals of designated countries by allowing them to stay in the U.S., regardless of their immigration status, for a finite period of time while things stabilize in their home countries. Currently, six countries have been granted TPS; Haiti, however, is not one of them. Although Haiti has received support from the United Nations since 2004, when former President Jean-Bertran Aristide was displaced by a coup, the country continues to suffer<sup>1</sup> In 2004, Haiti encountered several natural disasters, including Hurricane Jeanne, an earthquake, and rain-driven floods.<sup>2</sup> In 2007, Haiti suffered from two hurricanes that lead to the death of thousands, kidnappings, drug trafficking, and violent crimes.<sup>3</sup> More recently, there have been food riots throughout the country in response to food prices going up approximately 45 percent since 2006.<sup>4</sup>

Haitians living in the U.S., although physically removed from Haiti's natural disasters and political strife, are aware of the problems and consistently aid the country. In fact, Haitian nationals living and working in the U.S. help Haiti's economy and support U.S. aid already given to the country. In 2007, Haitians living in the U.S. sent approximately \$1.2 billion to friends and family members still living in Haiti.<sup>5</sup> These remittances equate to almost one-fourth of Haiti's gross domestic product, and almost 10 times the assistance that the nation received from the U.S.<sup>6</sup>

On February 7, 2008, Haiti's president, Rene Preval, requested President Bush grant TPS to Haiti in order to temporarily stop the deportation of Haitian immigrants from the United States. President Preval renewed this request on October 3, 2008, stating that Haiti could not receive individuals deported from the U.S.<sup>7</sup> Politicians, newspapers and community organizations throughout the U.S. urged President Bush to grant TPS to Haiti. Since January 2009, advocates for Haiti and its people have asked the Obama Administration to grant TPS to Haiti in order to allow the millions of Haitians living and working in the U.S. to remain here while Haiti recovers. Advocates argue that Haiti cannot handle the return of nationals because of the extraordinary, temporary conditions that would prevent them from returning safely. Critics are concerned that granting Haiti TPS will encourage Haitians to come to the U.S. in hopes of obtaining U.S. citizenship. But, if granted, TPS would only apply to Haitians living in the U.S. at the time of the designation. Further, Haitians do not

have a history of taking advantage of U.S. aid. For example, Haitians did not bombard U.S. borders seeking entry when the Clinton Administration granted a stay of deportation in 1998.<sup>8</sup>

**Temporary Protected Status**

TPS is a temporary immigration status granted to eligible nationals of designated countries.<sup>9</sup> The Secretary of the Department of Homeland Security (DHS) has the authority to provide TPS to aliens, living in the United States, who are unable to safely return to their home country because of (a) an ongoing armed conflict, (b) an environmental disaster, or (c) other extraordinary and temporary conditions that prevent their safe return.<sup>10</sup> The United States Citizenship and Immigration Services (USCIS), part of DHS, is responsible for administering the TPS program.<sup>11</sup>

The duration of a country's TPS designation may last between six and 18 months, with the possibility of an extension.<sup>12</sup> During this time period, TPS beneficiaries may remain in the United States for the set time period and obtain work authorization.<sup>13</sup> TPS does not, however, lead to permanent resident status.<sup>14</sup> Once the Secretary of DHS terminates a TPS designation, TPS beneficiaries revert to the same immigration status they had prior to TPS or to any other status they may have acquired while registered for TPS.<sup>15</sup> The following countries are currently designated for TPS: (1) Burundi, (2) El Salvador, (3) Nicaragua, (4) Somalia, (5) Sudan, and (6) Liberia.

An alien who is a national of a TPS designated country is eligible to apply for TPS benefits if he or she: (a) establishes the necessary continuous physical presence and continuous residence in the United States; (b) is not subject to one of the criminal or security related bars to TPS; and (c) applies in a timely manner for TPS benefits.<sup>16</sup> Should the Secretary of DHS extend a TPS designation beyond the original designation period, a TPS beneficiary must timely re-register in order to maintain his or her TPS status and benefits.<sup>17</sup> An alien is not eligible for TPS benefits if he or she (a) has been convicted of a felony or two or more misdemeanors committed in the U.S.; (b) is a persecutor or otherwise subject to one of the bars to asylum; or (c) is subject to one of several criminal related or terrorism related grounds of inadmissibility for which a waiver is not available.<sup>18</sup>

**Haiti's History**

Over the last 20 years, Haiti has been troubled by political unrest, economic hardship, and agricultural destruction. In 1986, the Duvalier family's 29-year dictatorship ended and the country tried to start afresh with a democratic constitution. Jean-Bertrand Aristide, the first president-elect, went into office in February 1991, and was overthrown by the fall of the same year.<sup>19</sup> During the 1990's the country was led by de facto military regime. Without stable leadership, there was a mass flight of Haitians and political unrest, as well as the deaths of thousands.<sup>20</sup>

In September 2004, Hurricane Jeanne swept through Haiti, causing floods that killed almost 2,000 people, left more than 200,000 people homeless, and destroyed 80% of the country's crops.<sup>21</sup> At that time, the U.S. Ambassador declared Haiti a disaster area.<sup>22</sup> In October 2005, Tropical Storm Alpha caused extensive flash floods across the country and left at least eight Haitians dead and approximately 23 others missing.<sup>23</sup> More recently, thousands participated in country-wide food riots in response to the rising costs of everyday food staples. The severe economic and agricultural situation in Haiti has resulted in people sustaining themselves and their families by eating "dirt cookies" made of clay, salt and oil. As of April 30, 2008, the U.S. Department of State issued a travel warning for Haiti, citing civil unrest, as well as unresolved political and economic conditions.<sup>24</sup> Later in 2008 four storms hit Haiti in less than one month causing the deaths of approximately 800 people, leaving approximately one million people homeless, and causing at least \$1 billion in damages.<sup>25</sup>

**History of Haitian Migration to the United States**

Haitians have been migrating to the U.S. for approximately four decades as a result of political unrest, natural disasters, and economic challenges. The 1981 Mariel Boatlift resulted in the arrival of approximately 150,000 Cuban and Haitian asylum seekers in South Florida.<sup>26</sup> Of that number, 25,000 individuals were Haitians.<sup>27</sup> In order to control this mass migration, the Reagan Administration established the program to interdict.<sup>28</sup> This agreement between the United States and the former Haitian dictator Jean-Claude Duvalier permitted the U.S. Coast Guard to board and inspect private Haitian sea carriers they suspected of carrying undocumented Haitians.<sup>29</sup> From 1981 to 1990, 22,940 Haitians were interdicted at sea.<sup>30</sup> The INS determined that only 11 of those interdicted qualified for asylum.<sup>31</sup> The U.S. Coast Guard has interdicted over 1,000 Haitians each year since FY 1998. The only country with more interdictions is Cuba.<sup>32</sup> As of the 2000 Census, there were 419,317 Haitian immigrants in the U.S.<sup>33</sup> New York had the second largest Haitian population in 2000 with 125,475 individuals living throughout the state.<sup>34</sup> It is likely that these numbers do not account for the entire Haitian population living in the U.S. and New York, as many remain undocumented.

**Proposed Federal Legislation**

During the 110<sup>th</sup> Congressional Session three pieces of legislation were introduced in the House of Representatives relating to Haitians' resident status in the United States. The Haitian Protection Act of 2007, H.R. 522, the HRIFA Improvement Act of 2007, H.R. 454, and the Save America Comprehensive Immigration Act of 2007, H.R. 750, sought to protect Haitians currently living in the

U.S. and ease the citizenship process for them. The Haitian Protection Act was reintroduced by Florida's Alcee Hastings on January 6, 2009 and currently has 42 co-sponsors.<sup>35</sup> This bill urges the Secretary of State to protect the Haitian people with temporary protected status because of the economic, criminal, and political problems plaguing the country.<sup>36</sup> This legislation would grant Haiti with TPS designation that would remain in effect for 18 months.<sup>37</sup>

**Proposed Res. No. 1595-A**

Proposed Res. No. 1595-A supports the Haitian Protection Act of 2009, H.R.144, which seeks to grant TPS to Haiti in order to allow eligible nationals to continue to live and work in the U.S. TPS was previously granted to nationals of Nicaragua and Honduras after Hurricane Mitch in 1999, and El Salvador in 2001 after severe earthquakes.<sup>38</sup> Like those countries, Haiti has suffered as a result of natural disasters. In addition, Haiti has struggled with decades of political unrest and economic challenges. Haiti cannot handle the return of nationals because of these extraordinary, temporary conditions that would prevent them from returning safely.<sup>39</sup> If the U.S. were to grant TPS to Haiti it would extend the economic benefit for the nation.

<sup>1</sup> *Help for a neighbor*, Chicago Tribune, May 10, 2008, available at <http://www.chicagotribune.com/news/opinion/chi-0510edit2may10,0,1371615.story>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Marc Lacey, *Hunger in Haiti increasing rapidly*, The International Herald Tribune, Apr. 17, 2008, available at <http://www.iht.com/articles/2008/04/17/news/Haiti.php>.

<sup>5</sup> Chicago Tribune, *supra*.

<sup>6</sup> *Id.*

<sup>7</sup> H.R.144, 111<sup>th</sup> Cong. (2009), available at <http://thomas.loc.gov/cgi-bin/bdquery/D?d111:2:/temp/~bdP9Vd:/bss/111search.html> (last visited Apr. 9, 2009).

<sup>8</sup> *Hope for Haitians?*, The Washington Post, Mar. 30, 2009.

<sup>9</sup> U.S. Citizenship and Immigration Services, *Temporary Protected Status* (last updated 3/13/2008), at <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=609d3591ec04d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=609d3591ec04d010VgnVCM10000048f3d6a1RCRD>.

<sup>10</sup> INA Section 244(b)(1).

<sup>11</sup> *Id.*

<sup>12</sup> INA Section 244(b)(2)(B).

<sup>13</sup> USCIS, *Temporary Protected Status, supra*.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> INA Section 244(c)(1)(A).

<sup>17</sup> USCIS, *Temporary Protected Status, supra*.

<sup>18</sup> *Id.*

<sup>19</sup> US Department of State, <http://www.state.gov/r/pa/ei/bgn/1982.htm>

<sup>20</sup> *Id.*

<sup>21</sup> Ruth Ellen Wasem, CRS Report for Congress – U.S. Immigration Policy on Haitian Migrants, Jan. 31, 2008, available at <https://secure.wikileaks.org/leak/crs/RS21349.pdf>.

<sup>22</sup> *Id.*

<sup>23</sup> MSNBC, *Alpha leaves 8 dead in Haiti before weakening*, available at <http://www.msnbc.msn.com/id/9785551/>.

<sup>24</sup> [http://travel.state.gov/travel/cis\\_pa\\_tw/tw/tw\\_917.html](http://travel.state.gov/travel/cis_pa_tw/tw/tw_917.html).

<sup>25</sup> The Chicago Tribune, *supra*.

<sup>26</sup> CRS Report for Congress, *supra*.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> CRS Report for Congress, *supra*.

<sup>32</sup> *Id.*

<sup>33</sup> Migration Policy Institute, *Spotlight on Haitians in the United States*, Apr. 2004, <http://www.migrationinformation.org/usfocus/display.cfm?ID=214#2>.

<sup>34</sup> <http://www.migrationinformation.org/usfocus/display.cfm?ID=214#2>

<sup>35</sup> H.R.144, 111<sup>th</sup> Cong. (2009), available at <http://thomas.loc.gov/cgi-bin/bdquery/D?d111:2:/temp/~bdP9Vd:/bss/111search.html> (last visited Apr. 14, 2009).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Res. No. 1595-A:)

Res. No. 1595-A

**Resolution supporting H.R. 144, which urges the U.S. government to designate nationals of Haiti eligible for Temporary Protected Status under section 244 of the Immigration and Nationality Act.**

By Council Members Eugene, Stewart, Brewer, Comrie, Dickens, Jackson, James, Mark-Viverito, Avella, Vann, Foster, Arroyo, Barron, Dilan, Gentile, Liu, Martinez, Reyna, Rivera, White, Mealy, Palma, Weprin, de Blasio, Mendez, Koppell, Nelson, Gerson, Fidler, Sears, Katz, Felder, Yassky, Gonzalez, Ferreras and Gennaro.

**Whereas**, According to the Census data of 2000, there are nearly 420,000 Haitian-born people living in the United States and at least 125,000 of these individuals reside in New York City; and

**Whereas**, New York City has some of the oldest established Haitian communities in the country; and

**Whereas**, Under section 244 of the Immigration and Nationality Act, the Secretary of the Department of Homeland Security may grant temporary protected status (TPS) to aliens in the United States who are momentarily unable to securely return to their home country due to ongoing armed conflict, the temporary effects of an environmental disaster, or other extraordinary and temporary conditions, and such aliens may not be removed from the United States during the period in which such status is in effect; and

**Whereas**, An alien is only eligible for TPS benefits if he (i) establishes a continuous physical presence and continuous residence in the U.S.; (ii) is not subject to one of the criminal, security-related, or other bars to TPS; and (iii) applies for TPS benefits in a timely manner; and

**Whereas**, An alien is not eligible for TPS if he (i) has been convicted of any felony or two or more misdemeanors committed in the U.S.; (ii) is a persecutor or subject to one of the bars to asylum; or (iii) is subject to criminal related or terrorism related grounds of inadmissibility for which waiver is not available; and

**Whereas**, According to the U.S. Citizenship and Immigration Services, countries (or parts thereof) that are currently designated for TPS include Burundi, El Salvador, Honduras, Liberia, Nicaragua, Sierra Leone, Somalia, Sudan, Bosnia and Herzegovina; and

**Whereas**, According to the *Washington Post*, Haiti applied for TPS in 2004 and was denied for undisclosed reasons; and

**Whereas**, on February 7, 2008, President Rene Préval requested TPS for Haiti and is awaiting approval by the U.S. government; and

**Whereas**, According to a March 2008 article in the *Caribbean National Weekly News*, President Préval's justification for seeking TPS is based, among other things, on the devastation in Haiti caused by Tropical Storm Noel last year; and

**Whereas**, The effects of the storm are straining the Haitian government's resources to provide economic and political reconstruction, making it difficult to provide social services to Haitians deported by the U.S. government; and

**Whereas**, The U.S. granted TPS to the nationals of Nicaragua and Honduras in 1999 following Hurricane Mitch, and El Salvador in 2001 following severe earthquakes, and renewed Somalia's TPS for another 18 months in March 2008, actions which many believe indicated that Haitian nationals are equally entitled to TPS; and

**Whereas**, on October 3, 2008, President Rene Préval renewed his request for TPS for Haiti, stating that Haiti is no longer able to receive those deported by the United States on a regular basis; and

**Whereas**, According to a recent article in the *Washington Post*, Haiti is the poorest country in the Western Hemisphere, and has been afflicted perennially by political instability, violence, financial hardship, natural disasters and other devastating conditions; and

**Whereas**, On January 17, 2007, even before Tropical Storm Noel hit Haiti, U.S. Representative Alcee Hastings of Florida introduced the Haitian Protection Act, H.R. 522, to extend TPS to Haitian nationals living in the United States; and

**Whereas**, According to H.R. 522, Haiti remains severely devastated by the combined effects of ongoing political turmoil and the aftermath of the natural disasters of 2004, including Tropical Storm Jeanne; and

**Whereas**, H.R. 522 also indicates that as a result of Tropical Storm Jeanne, more than 2,500 people died, and at least 4,000 homes were destroyed and thousands more severely damaged, leaving 250,000 people homeless; and

**Whereas**, H.R. 522 also points out that when Tropical Storm Jeanne hit Haiti, the country was already struggling with political instability and the aftermath of serious floods from a heavy rain in May 2004, which killed over 3,000 people; and

**Whereas**, In January 2007, the U.S. Department of State issued a travel warning to United States citizens warning them of the absence of an effective police force in much of Haiti, the potential for looting, the presence of intermittent roadblocks set by armed gangs or by police, and the possibility of random violent crime, including carjacking and assault; and

**Whereas**, The warning also stated that the kidnapping of Americans for ransom, including children, remains a serious threat; and

**Whereas**, According to the U.S. Department of State, there were 29 reported kidnappings of Americans in 2007 and 14 were reported kidnapped in 2008; and

**Whereas**, On April 30, 2008, the U.S. Department of State extended its travel warning to American citizens, advising them to defer traveling to Haiti until further notice due to unresolved political and economic conditions precipitating civil unrest that includes violent demonstrations, looting, transportation disruptions and up to seven reported deaths earlier that month; and

**Whereas**, On January 6, 2009, at the beginning of the 111<sup>th</sup> Congressional Session, U.S. Representative Alcee Hastings of Florida reintroduced the Haitian Protection Act, also known as H.R. 144; and

**Whereas**, According to H.R. 144, Haiti remains severely devastated by the ongoing food crisis and the aftermath of the natural disasters of 2008, 35,000-40,000 people remain homeless across the country and over 100,000 homes were damaged or destroyed as a result of the storms; and

**Whereas**, If TPS were granted to Haiti, only Haitians in the United States at the time of the designation would be allowed to live and work in the United States for the duration of the designation and upon termination of the TPS designation, Haitian beneficiaries would revert to the same immigration status they maintained before the designation; and

**Whereas**, Granting Haitians TPS would assist Haiti's nascent democracy in its efforts to stabilize the country's economy and recover from effects of years of severe environmental disasters, paralyzing political turmoil, violence and institutional failure; and

**Whereas**, While there is much more to do in support of Haiti, the passage of this crucial piece of legislation will also serve as a symbolic beacon of hope to all of the Haitian people and indicate that the United States truly understands their plight and will join efforts in working towards the recovery and self-sufficiency of their country; and

**Whereas**, The New York City Council has always worked to protect immigrants and ensure equal treatment amongst different immigrant groups; now, therefore, be it

**Resolved**, That the Council of the City of New York supports H.R. 144, which urges the U.S. government to designate nationals of Haiti eligible for Temporary Protected Status under section 244 of the Immigration and Nationality Act.

KENDALL STEWART, Chairperson; CHARLES BARRON, DAVID I. WEPRIN, ANNABEL PALMA, DARLENE MEALY, MATHIEU EUGENE, JULISSA FERRERAS, Committee on Immigration, April 20, 2009.

Pursuant to Rule 8.50 of the Council, the Public Advocate (Ms. Gotbaum) called for a voice vote.

Hearing those in favor, the Public Advocate (Ms. Gotbaum) declared **Res No. 1595-A** to be adopted.

The following 2 Council Members formally **objected** to the passage of this item: Council Members Ignizio and Oddo.

The following Council Member formally **abstained** to vote on this item: Council Member Vallone, Jr.

Adopted by the Council by voice vote.

## INTRODUCTION AND READING OF BILLS

Res. No. 1924

**Resolution calling upon the United States House of Representatives to pass and the United States Senate to introduce and pass the James Zadroga 9/11 Health and Compensation Act.**

By The Speaker (Council Member Quinn) and Council Members Gerson, Brewer, Comrie, Dickens, Fidler, Gentile, Gonzalez, James, Mealy, Palma, Recchia, Stewart, Weprin, White, Lappin and Nelson.

**Whereas**, It is estimated that almost 100,000 workers and volunteers participated in rescue, recovery and clean-up after the terrorist attacks on the World Trade Center of September 11, 2001; and

**Whereas**, Those who participated in the operations at the World Trade Center and those who lived, worked, attended school or otherwise spent time in the area around the World Trade Center on or after September 11 were exposed to a variety of environmental toxins and psychological strains; and

**Whereas**, Many of the individuals affected by the terrorist attacks experienced severe physical and mental problems in the period immediately following September 11; and

**Whereas**, A considerable number of people continue to have physical and mental difficulties and it is unknown what other problems they may develop in the future; and

**Whereas**, While there are three Centers of Excellence for World Trade Center health care in the City of New York that screen and treat those affected by the September 11 attacks, these clinics have struggled to maintain and improve their services without a steady stream of federal funding; and

**Whereas**, The James Zadroga 9/11 Health and Compensation Act (H.R. 847 "the Act") was introduced in the United States House by Representatives Maloney, Nadler, King and McMahon to provide medical monitoring and treatment for anyone exposed to toxins from the World Trade Center; and

**Whereas**, The Act would establish the World Trade Center Health Programs within the National Institute for Occupational Safety and Health (NIOSH) to provide free care for responders and others affected by the events on September 11; and

**Whereas**, A World Trade Center Health Program Steering Committee and a World Trade Center Health Program Scientific/Technical Advisory Committee would be created by the James Zadroga 9/11 Health and Compensation Act; and

**Whereas**, The Act would ensure that the first responders and those who worked, lived or otherwise spent time in the area around the World Trade Center would receive medical monitoring and treatment for all conditions related to the terrorist attacks of September 11; and

**Whereas**, The Administrator of the Act would be able to establish a national network of providers to serve eligible first responders living outside of New York; and

**Whereas**, Research into conditions related to the World Trade Center would be conducted under the Act; and

**Whereas**, Presently, the City of New York is involved in litigating claims brought by first responders and others who have become ill after 9/11; and

**Whereas**, The James Zadroga 9/11 Health and Compensation Act would also reopen the September 11 Victims Compensation Fund to provide compensation for damages incurred by first responders and others who did not file a claim before or became ill after the Fund was closed; and

**Whereas**, Re-opening the Victims Compensation Fund is necessary to put the adversarial nature of these proceedings to an end and provide compensation for those who are becoming sick and will become sick in the future; and

**Whereas**, It is important to have an Administrator to coordinate grants given to private hospitals and government agencies for 9/11 related health illnesses and injuries; and

**Whereas**, Dr. John Howard was appointed as the Director of NIOSH in July 2002, and also served as the 9/11 Health Coordinator after he was put in charge of federal 9/11 health programs in February 2006 by Michael Leavitt, then Secretary of the United States Department of Health and Human Services; and

**Whereas**, In July 2008, Dr. Howard's term as Director of NIOSH, and with it his services as 9/11 Health Coordinator expired and he was not reappointed to either position; and

**Whereas**, Since then, the position has been vacant; and

**Whereas**, Members of Congress, elected officials and community groups have urged President Barack Obama to reinstate Dr. John Howard as the 9/11 Health Coordinator as a result of his work and dedication to treating and monitoring the health impacts of the 9/11 attacks; and

**Whereas**, Irrespective of which appropriately trained and experienced appointee fills that position, President Barack Obama should appoint a 9/11 Health Coordinator as quickly as possible; now, therefore, be it

**Resolved**, That the Council of the City of New York calls upon the United States House of Representatives to pass and the United States Senate to introduce and pass the James Zadroga 9/11 Health and Compensation Act.

Referred to the Committee on Civil Service and Labor

Int. No. 962

By Council Member Avella.

**A Local Law to amend the administrative code of the city of New York, in relation to special requirements for certain new building permit applicants.**

*Be it enacted by the Council as follows:*

Section 1. Section 105 of chapter one of title 28 of the administrative code of the city of New York is amended by adding a new section 28-105.3.1 to read as follows:

§28-105.3.1 *Special requirements for new buildings, excluding one-, two-, or three-family residential buildings. All applicants for a new building permit other than for the construction of a one-, two-, or three-family residential building shall utilize i) union laborers; and/or ii) laborers who have been trained or are undergoing training, appropriate for the type of and scope of work to be performed, where such training is through a valid New York state department of labor apprenticeship program pursuant to article 23 of the New York state labor law, or an educational institution or school chartered, licensed or registered by the New York State department of education, or a department approved provider. Any subcontractors at such permitted sites shall also agree to the employment or contractual relation of the same type of laborers. Notwithstanding the above, nothing in this section shall be construed to mandate an employer or contractor that is subject to the provisions of this section to exclusively require the use of union labor at a construction site or to be in violation of any federal prohibition regarding the same.*

§2. This local law shall take effect ninety days after it is enacted into law.

Referred to the Committee on Housing and Buildings

Res. No. 1925

**Resolution calling upon the United States Congress to pass the FIT Kids Act, legislation that would amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.**

By Council Members Avella, Gentile, James, Palma, Sanders and White.

**Whereas**, Childhood obesity has risen dramatically over the years and continues to escalate; and

**Whereas**, More than 9 million children and adolescents between the ages of 6 and 19 years are considered to be overweight, according to the Centers for Disease Control and Prevention (CDC); and

**Whereas**, The United States Department of Health and Human Services estimates that by 2010, 20 percent of children and youth in the United States will be considered obese; and

**Whereas**, Much research shows that overweight adolescents are likely to become overweight adults, thereby increasing their risk of developing diseases such as cardiovascular disease, certain types of cancer and diabetes; and

**Whereas**, In addition to proper nutrition, exercise is an essential component in maintaining a healthy weight; and

**Whereas**, The CDC recommends that children engage in 60 minutes or more of physical activity each day; and

**Whereas**, Many children, however, do not achieve this goal and a decline in physical activity among children has contributed to the rising numbers in childhood obesity; and

**Whereas**, Part of this decline in activity has occurred because of the decrease in physical education programs in our country's school system; and

**Whereas**, The national standard for physical education frequency is 150 minutes per week in elementary school and 225 minutes per week in middle school and high school; and

**Whereas**, Many advocates for children's health maintain that far too many schools are not meeting this minimum and therefore far too many children are not getting regular physical activity; and

**Whereas**, In addition to the physical health benefits, many experts believe that regular physical activity promotes academic and social success; and

**Whereas**, On March 18, 2009, H.R. 1585/S.634, also known as the "Fitness Integrated with Teaching Kids Act", or the "FIT Kids Act", was introduced in the United States Congress by Rep. Ron Kind and Sen. Tom Harkin; and

**Whereas**, The FIT Kids Act would amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education by requiring annual state and local educational agency report cards to include specified information on school health and physical education programs; and

**Whereas**, The FIT Kids Act would also require promotion of healthy active lifestyles and improve professional development programs for teachers and principals by including training for physical and health education teachers; and

**Whereas**, This legislation would also direct the Secretary of Education to contract with the National Academy of Sciences (NAS) for a study that assesses the affect of health and physical education on students' ability to learn, and that provides recommendations for improving and measuring improvements to health and physical education in schools; now, therefore, be it

**Resolved**, That the Council of the City of New York calls upon the United States Congress to pass the FIT Kids Act, legislation that would amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

Referred to the Committee on Education

Int. No. 963

By Council Members de Blasio, Brewer, Comrie, Fidler, Foster, Gennaro, Gonzalez, Koppell, Palma, Sanders, Weprin, Garodnick, Nelson, Mitchell, Mark-Viverito, Liu, Martinez, James, Mealy, Seabrook, Yassky and Ferreras.

**A Local Law to amend the administrative code of the city of New York, in relation to prohibiting referrals of homeless persons to dwellings that fail to meet occupancy standards.**

*Be it enacted by the Council as follows:*

Section 1. Declaration of legislative findings and intent. The Department of Homeless Services ("DHS") is responsible for assisting homeless adults with finding permanent housing as they exit the City's shelter system. Media reports and reports from advocates document that DHS and its contract providers often refer single

adults to small residential properties that are overcrowded and unsafe, and are being illegally used as boarding houses. Several dwellings to which DHS referred single adults were subsequently condemned or ordered vacated by the New York City Department of Buildings, the New York City Fire Department, or the Department of Housing Preservation and Development as a result of fire safety hazards or illegal occupancy. The Council finds that the DHS practice of sending homeless adults to such housing must end. This legislation would ensure that homeless adults no longer move from shelter to unsafe housing by prohibiting DHS from making referrals to dwellings that fail to meet occupancy standards.

§2. Chapter 3 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-309.1 to read as follows:

*§21-309.1. Referrals to non-compliant dwellings prohibited.*

*The commissioner shall not refer homeless single adults to permanent housing that is provided in:*

*a. any dwelling that has an unresolved violation related to its certificate of occupancy, specifically: (i) an alteration or change in use or occupancy without issue of a certificate of occupancy or an amended certificate of occupancy; or (ii) occupancy contrary to that allowed by the certificate of occupancy or building department records; or (iii) a structure altered for occupancy as a dwelling for more than the legally approved number of families; or*

*b. any dwelling for which three or more violations have been issued within the two-year period immediately preceding the date a homeless single adult is referred to the dwelling that are related to: (i) an alteration or change in use or occupancy without issue of a certificate of occupancy or an amended certificate of occupancy; or (ii) occupancy contrary to that allowed by the certificate of occupancy or building department records; or (iii) a structure altered for occupancy as a dwelling for more than the legally approved number of families; or*

*c. any dwelling where occupancy by a homeless single adult would violate the certificate of occupancy.*

§3. This local law shall take effect immediately.

Referred to the Committee on General Welfare

Res. No. 1926

**Resolution congratulating the Governor and the NYS Legislature for their recent bold actions in reforming the Rockefeller Drug Laws by returning judicial discretion to judges and justices, in recognition that substance abuse is a chronic health condition that should be treated in a humane manner, and urging the Governor and the NYS Legislature to insure that adequate funding is provided for drug treatment and counseling and for vocational training and rehabilitative support services for both incarcerated and non-incarcerated individuals convicted of violating drug laws.**

By Council Members Dickens, Comrie, White, Brewer, Foster, Gonzalez, James, Mealy, Palma, Sanders, Stewart and Weprin.

**Whereas**, The Rockefeller Drug Laws (RDLs) were implemented in 1973 in response to increasing heroin use and a rising tide of substance abuse and drug related crime; and

**Whereas**, According to the New York State Commission on Sentencing Reform report entitled, "The Future of Sentencing in New York State," the RDLs required a minimum sentence of 15-years-to-life for a first time conviction for selling one ounce, or possessing two ounces of a controlled substance; and

**Whereas**, According to this report, incarceration was mandated for all Class A, B and C felonies; and

**Whereas**, According to a recent report by NYS Assembly Speaker Sheldon Silver entitled "Breaking New York's Addiction to Prison: Reforming New York's Rockefeller Drug Laws," the RDLs were enacted on the premise that the only way to quell drug abuse and stop violent crime was to impose harsh maximum prison sentences and mandatory minimum prison terms on drug offenders; and

**Whereas**, That report notes that before 1973, courts had the discretion and flexibility when sentencing for drug crimes to sentence based upon the individual facts and circumstances of the case before them; and

**Whereas**, The report further points out that the RDLs eliminated almost all judicial discretion and imposed a "one-size-fits-all" approach to drug abuse and its ramifications; and

**Whereas**, As demonstrated in the New York Civil Liberties Campaign, "Rockefeller Drug Law Reform," the RDLs were intended to target major drug dealers (kingpins), but in reality, most of the people incarcerated under these laws are convicted of low-level, nonviolent offenses; and

**Whereas**, That campaign also indicated that many of those incarcerated under these laws have no prior criminal record, and include those possessing relatively small amounts of drugs for their own use or because they were acting as low-level sellers or couriers; and

**Whereas**, Several respected New York State Commissions that have called for an end to indeterminacy in sentencing, including the McKay Commission, the Citizens' Inquiry on Parole and Criminal Justice, the Staff Report of the Assembly

Codes Committee, the Executive Advisory Committee on Sentencing, the Liman Commission, and the McQuillan Commission; and

**Whereas**, The Rand Corporation's Drug Policy Research Center has concluded that the cost of keeping an inmate in New York State prison for one year is approximately ten times more than the cost for services to that individual in an outpatient drug treatment program, and that the cost of residential drug treatment is approximately half the cost of incarceration; and

**Whereas**, Although the State particularly and the City also will save money with a shift towards treatment programs, away from incarceration, nevertheless the State and City must adequately prepare the infrastructure for more persons seeking treatment; and

**Whereas**, As noted in a report of The Legal Aid Society entitled "One Year Later: New York's Experience With Drug Law Reform," increased funding for non-incarcerated treatment programs is indispensable to the success of any reform; and

**Whereas**, That report further concluded that without such increased treatment capability, expanding judicial discretion will be meaningless; and

**Whereas**, In Spring 2009, the New York State Legislature passed and the Governor signed legislation to reform the RDLs by eliminating mandatory minimum sentences and returning judicial discretion over low-level drug law cases to judges, expanding drug courts and alternatives to incarceration, allocating over 70 million dollars to expand treatment and re-entry services, and allowing approximately 1,500 people incarcerated for low-level nonviolent drug offenses to apply for resentencing; and

**Whereas**, The bold changes to the RDLs recently enacted by the Governor and the NYS legislature indicates that the viewpoints that motivated the RDLs has shifted, and society now is more likely to view drug addiction as a disease and a mental health issue that is best addressed through treatment, rather than punitive periods of incarceration, for those willing to turn their lives around; now, therefore, be it

**Resolved**, That the New York City Council congratulates the Governor and the NYS Legislature for their recent bold actions in reforming the Rockefeller Drug laws by returning judicial discretion to judges and justices, in recognition that substance abuse is a chronic health condition that should be treated in a humane manner, and urging the Governor and the NYS Legislature to insure that adequate funding is provided for drug treatment and counseling and for vocational training and rehabilitative support services for both incarcerated and non-incarcerated individuals convicted of violating drug laws.

Referred to the Committee on Fire and Criminal Justice Services

Int. No. 964

By Council Members Dilan, The Speaker (Council Member Quinn), and Council Members Brewer, Comrie, Fidler, James, Nelson, Vallone, Jr. and Liu.

**A Local Law to amend the administrative code of the city of New York, in relation to professional certification by registered design professionals charged with a criminal offense.**

*Be it enacted by the Council as follows:*

Section 1. Section 28-104.2.1.3.1 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

§28-104.2.1.3.2 Mandatory sanctions. The commissioner shall, after the opportunity for a hearing before the office of administrative trials and hearings in accordance with department rules, exclude, suspend or otherwise condition the participation of a registered design professional who (i) knowingly or negligently submits a professional certification of an application and/or construction documents that contains false information or is not in compliance with all applicable provisions of law, or (ii) submits two professionally certified applications for construction document approval within any 12-month period containing errors that result in revocation of an associated permit or that otherwise demonstrate incompetence or a lack of knowledge of applicable laws. The commissioner shall also exclude, suspend or otherwise condition the participation of a registered design professional that has been charged with a criminal offense that relates in any way to the professional activities of such registered design professional. A registered design professional charged with such criminal offense shall notify the department in writing of such charge and of any conviction in a criminal proceeding within ten days of each such occurrence. The term "otherwise condition" shall mean limitations on such professional's participation in the program, such as, but not limited to, audits and monitoring of the registered design professional's applications and other submissions.

§2. Section 28-104.2.1.3.2.1 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended by adding a new section 28-104.2.1.3.2.1.1 to read as follows:

§28-104.2.1.3.2.1.1 A registered design professional that has been excluded or suspended from the program or whose participation in the program has been



otherwise conditioned as a result of being charged with a criminal offense or a conviction in a criminal proceeding, may apply for reinstatement when such charge or proceeding is dismissed or resolved in favor of the registered design professional. Such reinstatement shall be allowed without the imposition of any condition.

§3. Section 28-104.2.1.3.2.2 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

§28-104.2.1.3.2.2 Mandatory permanent revocation. The commissioner shall permanently revoke, without the opportunity of restoration, the professional certification privileges of an engineer or architect who, while on probation, professionally certifies an application, plans, construction documents or other document that contains false information or is not in compliance with all applicable provisions of law or who otherwise demonstrates incompetence or a lack of knowledge of applicable laws. *The commissioner shall also permanently revoke the professional certification privileges of a registered design professional who has been convicted in a federal or state court criminal proceeding when such conviction relates to the professional activities of such registered design professional.*

§4. This local law shall take effect immediately upon enactment.

Referred to the Committee on Housing and Buildings

Int. No. 965

By Council Members Dilan, Comrie, Dickens, Gentile, Gonzalez and Stewart.

**A Local Law to amend the administrative code of the city of New York, in relation to the dismissal of a notice of violation when access is denied to an owner to make repairs to or inspect a dwelling unit.**

*Be it enacted by the Council as follows:*

Section 1. Section 27-2115 of the administrative code of the city of New York is amended by adding a new subdivision (p) to read as follows:

*p. Notwithstanding any other provision of law, the department shall dismiss any notice of violation without prejudice to the department when a tenant or other lawful occupant of a dwelling unit denies access to an owner or his or her agent, or other person responsible for the correction of such violation or authorized on behalf of such owner to inspect such dwelling unit to determine compliance with this code or any other applicable provision of law, when the attempt to gain access is made at a reasonable time and in a reasonable manner. An owner shall apply for such dismissal and the department shall dismiss the notice of violation upon the owner's demonstration that such reasonable attempts to gain access to the dwelling unit were made on at least four separate occasions prior to his or her request for a dismissal of any notice of violation related to such dwelling unit. Such demonstration shall be made through the provision of reasonable documentation, including evidence of sent written requests for access, certification attesting to actual attempts made to gain access or repeated refusal by a tenant or other lawful occupant to grant access or any other proof deemed valid and reliable by the department.*

§2. This local law shall take effect one hundred eighty days after enactment, except that the commissioner of the department of housing preservation and development shall take such actions, including the promulgations of rules, as are necessary for implementation of this local law prior to such effective date.

Referred to the Committee on Housing and Buildings

Int. No. 966

By Council Members Dilan, Brewer, Comrie, Fidler, Gentile, James, Koppell, Palma, Sears, Stewart, White and Nelson.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring existing elevators in residential buildings and other buildings with residential occupants to be equipped with additional safety devices.**

*Be it enacted by the Council as follows:*

Section 1. Article 2 of subchapter 18 of chapter 1 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-996.3 to read as follows:

§27-996.3 Ascending car overspeed and unintended car movement protection. a) Notwithstanding the provisions of section 27-994 of this article, in all existing buildings or building sections classified in occupancy group R-2 and in all elevators accessible by the residential occupants of existing mixed occupancy buildings, ascending car overspeed protection shall be provided in all electric traction elevators

to prevent the elevator car from striking the hoistway overhead structure as a result of a failure in electric components, the control system or any other component upon which the speed of the car depends, except the suspension ropes and the drive sheave of the traction machine. Such ascending car overspeed protection shall conform with ASME A17.1-2000.

*(b) All work necessary to meet the requirements of this section shall be completed within one year of the effective date of this section.*

§2. Article 2 of subchapter 18 of chapter 1 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-996.4 to read as follows:

§27-996.4. Waiver of requirements. *(a) The commissioner may waive the requirements of section 27-996.3 of this code for which a formal application together with plans was filed provided, however, that such waiver would not significantly adversely affect provisions for safety and security and that equally safe and proper alternatives are prescribed and, further, that such waiver is based upon a specific finding that strict compliance with the requirement:*

*(1) would create an undue economic burden; or*

*(2) would not achieve its intended objective; or*

*(3) would be physically or legally impossible; or*

*(4) would be unnecessary in light of alternatives which insure the achievement of the intended objective or which, without a loss in the level of safety, achieve the intended objective more efficiently, effectively or economically.*

*(b) Each application for a waiver under subdivision a of this section shall be made to the commissioner in writing, setting forth the specific reason or reasons therefor. The commissioner shall determine, under all of the circumstances presented by such application, if such requirement may appropriately be waived. The commissioner shall render such determination in a writing which shall set forth in detail the commissioner's findings and conclusions with respect the requirement sought to be waived. A copy of such written determination shall be forwarded to the applicant. Such written determination shall be filed with the department and shall be available for public inspection.*

§3. This local law shall take effect immediately.

Referred to the Committee on Housing and Buildings

Res. No. 1927

**Resolution calling upon the United States Congress to pass the Family Smoking and Prevention Act.**

By Council Members Felder, Comrie, Gentile, James and Koppell.

**Whereas**, Tobacco is one of the deadliest consumer products and is often the cause of many chronic diseases such as cancer, lung disease and various cardiovascular diseases; and

**Whereas**, Smoking remains the number one preventable cause of death in the United States and results in more than 400,000 deaths each year; and

**Whereas**, Despite claims from major tobacco companies, the World Health Organization affirms that all tobacco products contain nicotine; and

**Whereas**, According to the National Institute on Drug Abuse, nicotine indirectly causes a release of dopamine to the brain regions that control pleasure and motivation, a reaction similar to that seen with cocaine and heroin; and

**Whereas**, According to the Center for Disease Control and Prevention, each day in the United States, approximately 3,600 young people ages 12 to 17 initiate cigarette smoking and each day approximately 1,100 young people become daily cigarette smokers; and

**Whereas**, According to the National Cancer Institute, 23% of high school students and 8% of middle school students in the United States are cigarette smokers; and

**Whereas**, A 2000 Surgeon General report states that regulating cigarette advertising and promotion, particularly that directed at young people, is very likely to reduce the prevalence and initiation of smoking; and

**Whereas**, The Federal Cigarette Labeling Act (FCLA) precludes States and localities from imposing prohibitions on advertising and promotion of cigarettes to protect the health of its citizens; and

**Whereas**, H.R. 1256, the Family Smoking and Prevention Act would amend the FCLA by permitting a state or locality to ban or restrict the time, place and manner of advertising and promotion of cigarettes to reduce smoking; and

**Whereas**, H.R. 1256 would thus allow New York City to impose specific bans on the advertising of cigarettes; now, therefore, be it

**Resolved**, That the Council of the City of New York calls upon the United States Congress to pass the Family Smoking and Prevention Act.

Referred to the Committee on Health

Int. No. 967

By Council Members Gennaro, Brewer, Comrie, Dickens, Fidler, Garodnick, Gioia, James, Koppell, Lappin, Martinez, Mitchell, Palma, Recchia, Reyna, Rivera, Stewart, Weprin, Nelson and Liu.

**A Local Law to amend the administrative code of the city of New York, in relation to requiring energy audits, retro-commissioning and retrofits of building systems.**

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 28 of the administrative code of the city of New York is amended by adding a new article 308 to read as follows:

**ARTICLE 308**

**AUDITS, RETRO-COMMISSIONING AND RETROFITS OF BUILDING SYSTEMS**

§28-308.1 Definitions. As used in this article, the following terms shall have the following meanings:

**COVERED BUILDING.** A building that exceeds 50,000 gross square feet, as determined by the department of finance, or two or more buildings on the same tax lot that together exceed 50,000 gross square feet.

**CENTRAL SYSTEM.** Building systems or components thereof, as specified by the department, that are part of the building operation and control by the owner and use energy or impact energy consumption including:

1. The building envelope.
2. Equipment located within or supplying the common, public, service and utility portions of the building.
3. Each building system, including terminal units up to the point at which it connects to equipment installed by any tenant (other than a net lessee for a term of 49 years or more, inclusive of renewal options), condominium unit owner or cooperative unit shareholder.

Such systems shall not include power, lighting, appliances or electronics systems located within spaces occupied by tenants (other than a net lessee for a term of 49 years or more, inclusive of renewal options), condominium unit owners or cooperative unit shareholders.

**ENERGY AUDIT.** A systematic process of identifying and developing modifications and improvements to central systems of covered buildings based on the level II audit set forth in the 2004 edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-conditioning Engineers Inc.(ASHRAE) as such process may be amended by the rules of the department. An audit shall include:

1. All reasonable retro-commissioning and retrofit measures that would, if implemented, reduce energy use and/or the cost of operating the building.
2. For each measure, the associated annual energy savings, the cost to implement, and the simple payback, calculated by a method determined by the department.
3. The building's benchmarking scores as per the EPA Portfolio Manager tool.
4. An accurate end-use break-down for initial usage and predicted energy savings.
5. An assessment of energy used outside the central system which impacts the energy consumption of the central system, however no retro-commissioning or retrofit measures will be required to be performed on equipment that is not part of the central system.

**ENERGY EFFICIENCY REPORT.** The report required to be filed pursuant to section 28-308.4 of this article.

**ENERGY MODELING.** The use of an energy software program, approved by the department, to predict energy consumption.

**ENERGY PROFESSIONAL.** An approved agency meeting the qualifications established by department rules to perform energy audits.

**FINANCIALLY DISTRESSED BUILDING.** A covered building that meets one of a list of quantitative thresholds or that participates in a city-managed financial assistance program, as determined in rules to be promulgated by an agency designated by the mayor.

**OWNER.** The owner of record of a covered building, except that in the case of a net lease of an entire building for a term of 49 years or more, inclusive of renewal options, the term owner shall refer to the net lessee and in the case of a covered building held in cooperative or condominium form of ownership, the term owner shall refer to the board of managers in the case of a condominium and the board of directors in the case of a cooperative apartment corporation.

**RETRO-COMMISSIONING MEASURES.** Non-capital work such as repairs, maintenance, adjustments, changes to controls or operational improvements that optimize a building's energy performance, and that have been identified by a systematic process of investigating and analyzing the

performance of a building's equipment and systems that impact energy consumption.

**RETROFIT MEASURES.** Capital alterations of building systems involving the installation of new equipment, insulation or other proven energy efficiency technologies that reduce energy consumption and improve the efficiency of such systems.

**SIMPLE PAYBACK.** The number of years it takes for the projected annual energy savings to pay back the amount invested in the energy efficiency measure, as determined by dividing the investment by the annual energy savings.

**SYSTEM.** A building assembly made up of various components that serve a specific function, including but not limited to exterior walls, windows, doors, roofs, ceilings, floors, lighting, piping, ductwork, insulation, HVAC system equipment or components, electrical appliances and plumbing appliances.

§28-308.2 Energy audits required. The owner of a covered building shall ensure that an energy audit is performed on the central systems of such building no earlier than three years prior to the date on which such building's energy efficiency report is filed with the department pursuant to this article. Such energy audit must be performed by or under the supervision of an energy professional in accordance with rules promulgated by the department.

Exceptions. No energy audit, retro-commissioning or retrofit is required if the building complies with one of the following exceptions:

1. The actual performance of the covered building, measured through an analysis of energy bills over a two year period within the three year period prior to the filing of an energy efficiency report, meets or exceeds the performance predicted by an energy model of such building having the same systems as such building and meeting the requirements of the New York city energy conservation code (whether or not the covered building is exempt from such code) in effect within 3 years prior to the due date of the building's energy efficiency report. The comparison of performance shall be determined by the energy cost budget method in accordance with rules promulgated by the department.

2. The covered building has received an EPA Energy Star label for at least two of the three years preceding the filing of the building's energy efficiency report.

3. The covered building has been certified under the Leadership in Energy and Environmental Design (LEED) 2009 rating system for Existing Buildings published by the United States Green Building Council or other LEED rating system for existing buildings, as determined by the department, within two years prior to the filing of the building's energy efficiency report.

§28-308.2.1 Contents of audit report. The energy professional shall prepare and sign a report of the energy audit. The audit report shall include such information relating to the audit as shall be specified in the rules of the department including but not limited to (i) the date or dates that the audit was performed (ii) a list of all reasonable retro-commissioning and retrofit measures available to the owner, (iii) the costs and energy savings associated with each measure (iv) a list of all reasonable retro-commissioning and retrofit measures available to the owner with a simple payback of not more than 7 years, (v) at the option of the owner, a list of retro-commissioning and retrofit measures that when combined equal or exceed the overall reduction in energy consumption of all the retrofit and retro-commissioning measures with a simple payback of not more than 7 years.

§28-308.2.1.1 Compliance with landmarks laws. The cost estimates for retrofit and retro-commissioning measures in covered buildings that are regulated by any city, state or federal law regulating landmarks and historic buildings shall include all additional costs necessary for the proposed work to comply with such law.

§28-308.3 Retro-commissioning and retrofit measures required. The owner of a covered building shall ensure that all the retro-commissioning and retrofit measures identified in the audit report as having a simple payback of not more than 7 years or, at the option of the owner, retro-commissioning and retrofit measures that when combined equal or exceed the overall reduction in energy consumption of the retrofit and retro-commissioning measures with a simple payback of not more than 7 years, are performed on the systems of such building prior to the date on which such building's energy efficiency report is filed with the department pursuant to this article.

Exception. Where the owner determines post audit, in accordance with the rules of the department, that the actual cost of one or more of the retro-commissioning or retrofit measures may exceed the estimates set forth in the audit by more than 20 percent and that the simple payback for such measure or measures may exceed 7 years, the owner shall not be required to implement such measure or measures. The owner shall substantiate such determination in a manner to be set forth in the rules of the department.

§28-308.4 Energy efficiency report required. The owner of a covered building shall ensure that an energy efficiency report for such building, prepared and signed by an energy professional, is submitted to the department on or within two years prior to the due date established pursuant to this section.

Exceptions. 1. An owner of a covered building may apply for an extension of time to file an energy efficiency report if despite such owners good faith efforts, to be documented in such application, the owner is unable to complete required retro-commissioning and retrofit measures prior to the scheduled due date for such report. The commissioner may grant no more than 2 such extensions of no more than 1 year each. Extensions granted pursuant to this provision shall not extend the scheduled due dates for subsequent energy efficiency reports.

2. An owner of a covered building that qualifies as a financially distressed building may apply for extensions of time of not more than one year in each instance to submit an energy efficiency report to the department.

3. An owner of a covered building may apply for an extension of time to file an energy efficiency report if, despite the owners good faith efforts, to be documented in such application, the owner is unable to secure loans or grants to finance required retro-commissioning and retrofit measures prior to the scheduled due date for such report.

§28-308.4.1 Due dates for covered buildings in existence on the effective date of this article. No later than December 31<sup>st</sup>, 2010 the department shall by rule assign due dates for the first energy efficiency reports to be submitted for completed buildings in existence on the effective date of this article pursuant to a staggered schedule over a ten year period commencing on December 31<sup>st</sup>, 2013. No such first report shall be required to be submitted earlier than ten years after the building was completed, as determined by the department. Energy efficiency reports for such buildings shall be due every ten years thereafter on the anniversary of the due date of the first such report.

§28-308.4.2 Due dates for covered buildings completed after the effective date of this article. The owner of a covered building completed after the effective date of this article shall submit the first energy efficiency report for such building in the 10<sup>th</sup> year following the issuance of the first certificate of occupancy for such building on a due date to be assigned by the department. Energy efficiency reports for such building shall be due every ten years thereafter on the anniversary of the due date of the first report.

§28-308.5 Content of energy efficiency report. An energy efficiency report shall contain a certification by the energy professional that the covered building is in compliance with the provisions of this article and the rules of the department. Unless one of the exceptions set forth in section 28-308.2 applies to such building, the report shall include (i) the energy audit report (ii) copies of approved construction documents for all required retro-commissioning and retro-fit work, (iii) sign-offs that any required work has been completed, (iv) substantiation of post audit computations of cost and simple payback in a manner to be provided in the rules of the department, and (v) other information relating to energy consumption required by the department. Where an energy audit, retro-commissioning and retrofit are not required pursuant to one of the exceptions set forth in section 28-308.2, such report shall include (i) substantiation that the covered building complies with such exception in a manner to be provided in the rules of the department and (ii) other information relating to energy consumption required by the department.

§28-308.6 Rules. Not later than December 31<sup>st</sup> 2010 the department shall promulgate rules to carry out the provisions of this article, which may include separate fees for reports and applications filed pursuant to this article.

§28-308.7 Notification by the department of finance. The department of finance shall notify the owner of each covered building of the requirements of this article three years prior to the due date of an energy efficiency report for such building and every year thereafter until the due date.

§2. Notwithstanding any inconsistent provision of article 308 of chapter 3 of title 28 of the administrative code, as added by section 1 of this local law, the owners of covered buildings in existence on the effective date of this local law may comply with the first assigned due date for the submission of an energy efficiency report, by submitting with such report records of audits, retro-commissioning and retrofits performed prior to December 31, 2013 on a voluntary basis and certified as completed prior to such date, subject to the following conditions:

a. Audits, retro-commissioning and retrofits performed after the enactment of rules by the department of buildings relating thereto shall conform to such rules.

b. Audits, retro-commissioning and retrofits performed and certified as completed prior to the adoption of such rules shall be a Level II Audit as set forth in the 2004 edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE), an audit performed under a NYSEERDA or NYPA contract, or other audit as determined by the department. Such energy audit performed prior to the completion of rule-making shall be signed and dated by a Professional Engineer, Certified Energy Manager, or Certified Energy Auditor and shall include certification that all work associated with the audit, including but not limited to surveys, inspections, and analyses, was completed on or after January 1, 2006.

§3. Severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is for any reason declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§4. This local law shall take effect immediately, provided that no energy efficiency report shall be required to be submitted to the department of buildings before December 31<sup>st</sup>, 2013.

Referred to the Committee on Environmental Protection

Int. No. 968

By Council Members Gennaro, Brewer, Comrie, Dickens, Fidler, Gentile, James, Nelson, Palma, Sanders, Stewart, Weprin and Liu.

**A Local Law to amend the administrative code of the city of New York, in relation to assessing and developing recommendations regarding indoor air quality at schools located in neighborhoods with the highest asthma rates.**

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 17 of the administrative code of the city of New York is hereby amended by adding a new section 17-196 to read as follows:

§17-196. a. School Indoor Air Quality Assessment. The department, in consultation with the department of education, shall conduct an assessment of the levels of indoor air pollutants at fifty schools located in neighborhoods having the highest asthma rates in the city of New York.

b. Report. On or before December 31 of the year two thousand and ten, the department shall submit to the mayor and the speaker of the city council a report summarizing the results of the assessment conducted pursuant to subdivision a of this section. Such report shall include recommendations of the department, disaggregated by each assessed school, regarding measures such school may take to reduce the levels of air pollutants and otherwise improve indoor air quality, including, but not limited to: designating an indoor air quality coordinator for such school; developing and maintaining an indoor air quality plan for such school in accordance with any best practice programs established by the United States environmental protection agency; purchasing supplies that reduce indoor air pollutants, such as low-dust chalk; and developing standards for building maintenance and cleaning that reduce levels of indoor air pollutants. The department shall provide each such school with a copy of such report and shall post a copy of such report on its website.

§2. If any subsection, sentence, clause, phrase, or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of the local law that added this section, which remaining portions shall remain in full force and effect. Nothing in this local law shall be interpreted or applied so as to create any power, duty or obligation in conflict with any federal or state law.

§3. This local law shall take effect ninety days after its enactment into law and shall be deemed repealed on December 31, 2011; provided, however, that the commissioner of the department shall take such actions, including the promulgation of rules, as may be necessary for timely implementation of this local law.

Referred to the Committee on Health

Res. No. 1928

**Resolution finding that the enactment of Proposed Int. No. 21-A does not have a significant adverse impact on the environment and is consistent with The State Environmental Quality Review Act.**

By Council Members Gennaro, Dickens, Mitchell and Weprin.

**Whereas**, The enactment of Proposed Int. No. 21-A, A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to developing a comprehensive program for the remediation and reuse of brownfields, is an "action" as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

**Whereas**, The Council and the Office of the Mayor, as co-lead agencies pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review, have considered the relevant environmental issues attendant to such enactment; and

**Whereas**, After such consideration and examination of an Environmental Assessment Statement, the Council and the Office of the Mayor have determined that a Negative Declaration should be issued; and

**Whereas**, The Council and the Office of the Mayor have examined and considered the Negative Declaration that was prepared; now, therefore, be it

**Resolved**, That the Council of the City of New York, having considered the Negative Declaration, hereby finds that:

(1) the requirements of The State Environmental Quality Review Act and Part 617 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York have been met; and

(2) consistent with environmental, social, economic and other essential considerations, the proposed action is one which will not result in any significant adverse environmental impacts; and

(3) the annexed Negative Declaration constitutes the written statement of facts and conclusions, and of environmental, social, economic and other facts and standards that form the basis of this determination.

Referred to the Committee on Environmental Protection

Res. No. 1929

**Resolution calling on the New York State Legislature to pass A. 3407/ S. 2331 mandating that child day care center employees receive cardiopulmonary resuscitation (CPR) and first aid training and certification.**

By Council Members Gerson, Fidler, Gentile, Palma and Sanders.

**Whereas**, The health and safety of children who are in the care of others is a primary concern for all New Yorkers; and

**Whereas**, Accidents, including those that cause sudden cardiac arrest, are the leading cause of death among toddlers and children; and

**Whereas**, Early CPR is one of the four critical links in the chain of survival for sudden cardiac arrest victims; and

**Whereas**, CPR helps maintain vital blood flow to the heart and brain and increases the amount of time that an electric shock from a defibrillator can be effective; and

**Whereas**, When CPR is performed immediately after a traumatic accident, it can prevent death as well as brain injury; and

**Whereas**, Brain death starts to occur four to six minutes after a child suffers cardiac arrest if no CPR and defibrillation occurs during that time; and

**Whereas**, According to the American Heart Association CPR can double or triple the chances of survival for a sudden cardiac arrest victim; and

**Whereas**, The Office of Children and Family Services does not require day care center employees to have CPR training, but merely encourages it; and

**Whereas**, The American Heart Association offers both credentialed courses and awareness programs to train people in CPR, with options for child, and infant CPR, relief of choking, and use of an AED (Automated External Defibrillator); and

**Whereas**, New York State should be a national leader and increase the rate of survival for sudden cardiac arrest victims; and

**Whereas**, It is imperative that employees are trained to provide aid to the children in their care; and

**Whereas**, No child should die needlessly due to sudden cardiac arrest simply because the caretaker did not have proper CPR training, now, therefore, be it,

**Resolved**, That the Council of the City of New York calls on the New York State Legislature to pass A. 3407/ S. 2331 mandating that child day care center employees receive cardiopulmonary resuscitation (CPR) and first aid training and certification.

Referred to the Committee on Health

Int. No. 969

By Council Members Gonzalez, Fidler, Foster, James, Mealy, Recchia, Stewart and Liu.

**A Local Law to amend the administrative code of the city of New York in relation to requiring adolescent development training for correction officers.**

*Be it enacted by the Council as follows:*

Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-130 to read as follows:

*§9-130 Adolescent development training. The department shall furnish eight hours of training in adolescent development to all correction officer staff. Correction officers must complete this training prior to their appointment or within one year after appointment. The training shall be provided at the expense of the department and by an instructor with an advanced academic degree in adolescent development or related subject as well as at least two years experience in providing instruction. The department shall furnish the training curriculum to the Council once it is established and anytime thereafter when it is substantially updated or changed. For the purposes of this section, adolescent development shall be defined as the process through which adolescents acquire cognitive, physical, psychological and emotional abilities.*

§2. This local law shall take effect sixty days after enactment.

Referred to the Committee on Juvenile Justice

Res. No. 1930

**Resolution calling on the United States Senate to pass legislation reauthorizing and enhancing the Juvenile Justice and Delinquency Prevention Act.**

By Council Members Gonzalez, Comrie, Dickens, Fidler, Foster, James, Palma, Sanders and Liu.

**Whereas**, The United States' juvenile justice system is responsible for detained and incarcerated youth as well as administering programs designed to protect youth and reduce future juvenile crime; and

**Whereas**, A continuum of funding is needed to provide these necessary services to youth who come into contact with the juvenile justice system; and

**Whereas**, The Juvenile Justice and Delinquency Prevention Act ("JJJPA") of 1974 is a major source of federal funding to improve states' juvenile justice systems; and

**Whereas**, The JJJPA is based on the principle that children should not have contact with adults in jails and other institutional settings; and

**Whereas**, Congress initially passed the JJJPA in 1974 to keep children from having direct contact with adults in jails and prisons and to establish rules under which juvenile offenders could be detained; and

**Whereas**, Under the JJJPA and its subsequent re-authorizations, states are required to maintain core protective services for juveniles; and

**Whereas**, According to the Campaign for Youth Justice, an average of 7,500 juveniles are incarcerated in adult jails every day because the JJJPA does not apply to children who are being tried as adults; and

**Whereas**, Studies have shown that the majority of youth in detention centers across the country are African American or Latino, even though the JJJPA was amended during a previous reauthorization in 1994 to require states to find out why disproportionate numbers of minority juveniles are detained; and

**Whereas**, S.678, a bill to reauthorize and enhance the JJJPA currently pending in the United States Senate, would increase federal funding for key services including prevention, intervention, and treatment programs designed to reduce the incidence of juvenile crime; and

**Whereas**, S.678 would also authorize funding for mental health and drug treatment for juvenile offenders, and encourage states to address the overrepresentation of minorities in the juvenile justice system; and

**Whereas**, According to studies conducted by The Centers for Disease Control and Prevention, children who are incarcerated in adult prisons commit more crimes, when they are released, than children with similar histories who are kept in juvenile facilities; and

**Whereas**, S.678 would enhance the JJJPA by encouraging states to move away from keeping youth in adult jails by promoting plans for alternatives to detaining youth; and

**Whereas**, S. 678 would provide federal funding for programs that prevent delinquency as well as programs that reduce crime and recidivism among youth; and

**Whereas**, Reauthorizing the JJJPA would push forward new ways to help youth move out of the criminal justice system, return to school, and become responsible, hard-working members of our communities; now, therefore, be it

**Resolved**, That the Council of the City of New York calls upon the United States Senate to pass legislation reauthorizing and enhancing the Juvenile Justice and Delinquency Prevention Act.

Referred to the Committee on Juvenile Justice

Res. No. 1931

**Resolution urging the New York City Department of Correction to increase staffing levels in adolescent facilities at Rikers Island.**

By Council Members Gonzalez, Comrie, Dickens, Mealy, Palma, Sanders, White and Liu.

**Whereas**, The Department of Correction ("DOC") categorizes an adolescent as an individual between the ages of 16 and 18; and

**Whereas**, DOC has jurisdiction over New York City's incarcerated adolescent population and mainly houses the male adolescent population in its Robert N. Davoren Center and the female adolescent population at the Rose M. Singer Center, which are both located on Rikers Island; and

**Whereas**, The adolescent population includes: defendants awaiting trial, persons convicted of a crime and sentenced to one year or less, parole and probation

violators, and persons sentenced to more than one year who are awaiting transfer to the New York state prison system; and

**Whereas**, According to research conducted by the MacArthur Foundation's Research Network on Adolescent Development, incarcerating youth in adult facilities increases adolescents' likelihood of recidivating; and

**Whereas**, Reports show that youth have the highest suicide rates of all inmates in jails and have much higher rates of victimization – including rape – than adult inmates; and

**Whereas**, Sufficient supervision must be given to incarcerated adolescents by DOC staff in order to help protect this vulnerable population; and

**Whereas**, Currently, DOC has a staff-to-adolescent ratio of 25-to-1 in most facilities housing adolescents; and

**Whereas**, Advocates report that current staff-to-adolescent ratio is inadequate to provide the safety and proper monitoring needed by incarcerated adolescents; and

**Whereas**, This inadequacy is evident in the current rate of violence among the incarcerated adolescent population at Rikers Island; and

**Whereas**, New York City's Department of Juvenile Justice's current staff-to-juvenile ratio in secure detention facilities is 8-to-1 during the daytime hours and 12-to-1 during nighttime hours; and

**Whereas**, DOC's current staff-to-adolescent ratio should reflect similar ratios in order to provide better safety for incarcerated youth; and

**Whereas**, Increasing the number of staff to serve the adolescent population would assist in decreasing the number of violent incidents within adolescent facilities at Rikers Island and provide a safer environment for incarcerated youth; now, therefore, be it

**Resolved**, That the Council of the City of New York urges the New York City Department of Correction to increase staffing levels in adolescent facilities at Rikers Island.

Referred to the Committee on Juvenile Justice

Int. No. 970

By Council Members James, Comrie and Palma.

**A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the sale of menthol cigarettes.**

*Be it enacted by the Council as follows:*

Section 1. Title 17 of the administrative code of the city of New York is amended to add a new chapter 13 to read as follows:

**CHAPTER 13**

**PROHIBITION ON THE SALE OF MENTHOL CIGARETTES**

§ 17-1301 *Definitions.*

§ 17-1302 *Sale of menthol cigarettes prohibited.*

§ 17-1303 *Violations and penalties.*

§ 17-1304 *Enforcement.*

17-1301 *Definitions.* Whenever used in this chapter, the following terms shall be defined as follows:

a. "Characterizing flavor" means a taste or aroma experienced prior to or during consumption of a cigarette that predominates over and is distinguishable from the taste or aroma of tobacco. A public statement or claim disseminated by the manufacturer, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning the cigarette, that a cigarette has or produces a flavor, taste or aroma (other than tobacco) shall constitute proof that the cigarette has a characterizing flavor; provided, however, that a tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.

b. "Cigarette" means (a) any roll for smoking made wholly or in part of tobacco or any other substance wrapped in paper or in any other substance not containing tobacco, and (b) any roll for smoking made wholly or in part of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; provided, however, that a roll shall not be considered to be a cigarette for purposes of section 17-1302 if it is not treated as a cigarette for federal excise tax purposes under the applicable federal statute in effect on April first, two thousand eight.

c. "Person" means any natural person, partnership, firm, joint stock company, corporation, or employee thereof, or other legal entity.

17-1302 *Sale of menthol cigarettes prohibited.* It shall be unlawful for any person to sell or offer for sale any cigarette which contains any natural or artificial constituent or additive that causes such cigarette or its smoke to have a characterizing flavor of menthol.

§17-1303 *Violations and penalties.* a. Any person who violates section 17-1302 of this chapter shall be liable for a civil penalty of not more than three hundred dollars for the first violation; not more than five hundred dollars for the second violation at the same place of business within a two-year period; and not more than two thousand dollars for the third and all subsequent violations at the same place of business within a two-year period.

b. For a third and all subsequent violations at the same place of business within a two-year period, any person who engages in business as a retail dealer, as such term is defined in section 11-1301 of the code, shall be subject to the mandatory suspension of his or her cigarette license, issued pursuant to section 11-1303 of the code, for such place of business, for a period not to exceed one year. A cigarette license shall be suspended at the same hearing at which a retail dealer is found to be in violation for a third or subsequent violations at the same place of business within a two-year period.

§17-1304 *Enforcement.* The department and the department of consumer affairs shall enforce the provisions of this chapter. A proceeding to recover any civil penalty authorized pursuant to section 17-1303 of this chapter shall be commenced by the service of a notice of violation returnable to the administrative tribunal established by the board of health or to the adjudication division of the department of consumer affairs. Such notice of violation shall contain a statement that any hearing for a third or subsequent violation of section 17-1302 of this chapter at the same place of business within a two-year period shall also commence a hearing for the suspension of a retail dealer's cigarette license where the retail dealer is found to be in violation of such section. The administrative tribunal of the board of health and the adjudication division of the department of consumer affairs shall have the authority to render decisions and to impose the remedies and penalties provided for in section 17-1303 of this chapter, in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law. The department and the department of consumer affairs shall notify each other within thirty days of a finding that a retail dealer has been found to be in violation of any provision of this chapter.

§2. This local law shall take effect one hundred twenty days after its enactment. The commissioner of health and mental hygiene and the commissioner of consumer affairs shall promulgate any rules as may be necessary for the purposes of carrying out the provisions of this local law prior to its effective date.

Referred to the Committee on Health

Int. No. 971

By Council Members James, Comrie, Palma, Nelson, Vallone, Jr., Stewart and Mendez.

**A Local Law to amend the administrative code of the city of New York, in relation to notice of fires caused by underground street electrical infrastructure.**

*Be it enacted by the Council as follows:*

Section 1. Chapter one of title 15 of the administrative code of the city of New York is amended by adding a new section 15-129 to read as follows:

§15-129 *Reporting underground fires caused by electrical infrastructure.* Within twenty-four hours after responding to a fire caused by underground street electrical infrastructure, the department shall notify the council member in whose district such fire occurred. Such notification shall include, at a minimum, the date, time and location of such fire, and causation, if known.

§2. This local law shall take effect ninety days after its enactment into law.

Referred to the Committee on Transportation

Res. No. 1932

**Resolution urging the President and the United States Congress to take all appropriate actions to help ensure that Venezuela protects its Jewish citizens and their freedom of religious practice.**

By Council Members Koppell, Nelson, James, Felder, Brewer, Fidler, Comrie, Gennaro, Palma, Sanders and Vallone, Jr.

**Whereas**, The New York metropolitan area has the second largest Jewish population outside of Tel Aviv, accounting for approximately 12% or 1.97 million of New York City's population, according to a 2002 study by the North American Jewish Data Bank at the University of Connecticut; and

**Whereas**, There are approximately 15,000 Jewish people living in Venezuela, according to CBS News; and

**Whereas**, The Jewish population of Venezuela includes families that have lived in the country for over two centuries and many of these are survivors of World War II; and

**Whereas**, Many Venezuelan Jews fear for their safety due to threats made against them and recent attacks against Jewish institutions; and

**Whereas**, A synagogue in Caracas was ransacked and vandalized on January 31, 2009; and

**Whereas**, The assailants shattered religious objects and spray painted anti-Semitic epithets on the walls; and

**Whereas**, The assailants also allegedly stole a computer database containing names and addresses of Jews living in Venezuela; and

**Whereas**, The authorities have arrested 11 people, including 8 police officers, suspected of participation in the violent act, according to *The New York Times*; and

**Whereas**, Members of the United States Congress have called on Venezuela's President to protect the country's Jews following the attack on the synagogue in Caracas, according to the U.S. House Committee on Foreign Affairs website; and

**Whereas**, Sixteen Republican and Democrat congressional members, including representatives Eliot Engel (D-NY), Joseph Crowley (D-NY) and Michael McMahon (D-NY), signed a letter demanding an end to the intimidation and harassment of the Jewish community; and

**Whereas**, A second attack occurred in February 2009, where assailants threw an explosive at a Jewish community center in Caracas, but thankfully no one was hurt in the blast, according to *The New York Times*; and

**Whereas**, Critics of the Venezuelan government believe that the government incited religious intolerance and violence against the country's Jewish community through its outspoken denunciations of Israel; and

**Whereas**, Jewish organizations have expressed concern that the expulsion of the Israeli Ambassador and Embassy staff by the Venezuelan government in early January 2009 may have contributed to hostility against Jews; and

**Whereas**, Many Venezuelan Jews fear that President Chavez's rhetoric will likely result in more anti-Semitic acts; and

**Whereas**, New York area Jews have demonstrated outside the Venezuelan Consulate in Manhattan to show solidarity with Venezuelan Jews who have been victims of attacks and anti-Semitism; and

**Whereas**, The American Jewish Committee (AJC), whose national headquarters is located in Manhattan, has long been active with the Latino communities in the U.S. and has engaged in international diplomacy efforts with the highest levels of government in Latin America; and

**Whereas**, One of AJC's goals is to further American Jewish relations with the Latino community in the U.S. and countries across Latin America; and

**Whereas**, AJC leaders frequently visit Latin American countries, maintaining international partnerships with the Jewish communities of Argentina, Costa Rica, Mexico and Venezuela; and

**Whereas**, The Latin American Institute works with AJC partners to strengthen Jewish life in the region, deter terrorism, ensure that democracy and pluralism remain strong, and advance relations between Latin American countries, the U.S. and Israel; and

**Whereas**, Since 2004, AJC has been closely monitoring the unstable situation in Venezuela under the Chavez presidency and has lent its support in times of need; and

**Whereas**, AJC voiced its alarm at the unwarranted raid on a community day school by Venezuelan school forces on November 29, 2004 that left many Jewish students and their families traumatized; and

**Whereas**, Due to the ongoing tension between the Venezuelan government and its Jewish citizens, the safety of this vulnerable population is in serious danger and acts of violence against them cannot be condoned; now, therefore, be it

**Resolved**, That the Council of the City of New York urges the President and the United States Congress to take all appropriate actions to help ensure that Venezuela protects its Jewish citizens and their freedom of religious practice.

Referred to the Committee on Cultural Affairs, Libraries & International Intergroup Relations

Res. No. 1933

**Resolution calling upon Governor Paterson and the New York State Legislature to enact legislation that would amend the J-51 Tax Exemptions/Tax Abatement Program to include costs associated with sidewalk bridging, scaffolding, engineers, and architects as part of reimbursable expenses for the renovation of landmarked buildings.**

By Council Members Lappin, James, Mitchell, Palma, Stewart and Liu.

**Whereas**, The J-51 Tax Exemptions/Tax Abatement Program (J-51 Program) is authorized by Section 489 of the New York State Real Property Tax Law and Section 11-243 of the New York City Administrative Code; and

**Whereas**, The J-51 Program provides real estate tax benefits to owners of residential real property who perform certain rehabilitation work on their properties; and

**Whereas**, The J-51 Program also grants tax benefits to owners of non-residential buildings who convert their buildings to residential use; and

**Whereas**, The J-51 Program was originally enacted in 1955 to encourage landlords to upgrade cold water flats by installing central heat and hot water systems; and

**Whereas**, The J-51 Program has since been expanded to provide benefits for most major capital improvements, certain repairs, and conversions to buildings for residential use; and

**Whereas**, The J-51 Program provides full cost benefits for work performed pursuant to a Landmarks Preservation Commission permit; and

**Whereas**, The inclusion of costs associated with sidewalk bridging, scaffolding, engineers, and architects as part of reimbursable expenses for the renovation of landmarked buildings is a desirable and beneficial inclusion in the J-51 Program; now, therefore, be it

**Resolved**, That the Council of the City of New York calls upon Governor Paterson and the New York State Legislature to enact legislation that would amend the J-51 Tax Exemptions/Tax Abatement Program to include costs associated with sidewalk bridging, scaffolding, engineers, and architects as part of reimbursable expenses for the renovation of landmarked buildings.

Referred to the Committee on Housing and Buildings

Int. No. 972

By Council Members Liu, Brewer, Comrie, Dickens, Fidler, Gentile, James, Mitchell, Nelson, Sanders and Stewart.

**A Local Law to amend the administrative code of the city of New York, in relation to prohibiting ticketing of motor vehicles for violating alternate side of the street parking rules if the street has already been cleaned.**

*Be it enacted by the Council as follows:*

Section 1. Chapter 2 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-213 to read as follows:

§19-213 *Restrictions on issuing notices of violation for alternate side of the street parking violations* a. For the purposes of this section, the term "roadway" shall mean that portion of a street ordinarily used for vehicular travel.

b. No notice of violation shall be issued to a driver or owner of a motor vehicle for violating alternate side of the street parking rules on a day when such rules are in effect if the roadway directly under where such vehicle is parked has already been swept on such day.

§2. This local law shall take effect thirty days after it is enacted into law.

Referred to the Committee on Transportation

Int. No. 973

By Council Members Recchia, Comrie, Dickens, Fidler, Garodnick, Gioia, James, Lappin, Martinez, Mitchell, Nelson, Reyna, Rivera, Stewart and Liu.

**A Local Law to amend the administrative code of the city of New York, in relation to upgrading lighting systems in existing buildings greater than 50,000 gross square feet.**

*Be it enacted by the Council as follows:*

Section 1. Declaration of legislative findings and intent. The Council finds that lighting is responsible for almost 20% of the energy used in New York City's buildings and roughly 20% of a building's carbon emissions. Rapid improvements in lighting technology in the past decades have made it feasible to dramatically reduce this energy consumption by installing more efficient lighting systems. Furthermore, any investments made to install such systems will typically be realized through operational savings. The Council finds that requiring lighting systems of all buildings greater than 50,000 gross square feet to be upgraded to meet the minimum requirements of the New York City Energy Conservation Code by no later than December 31, 2022 will save energy and significantly reduce carbon emissions. The Council also finds that given the rates of renovation of tenant space in commercial and mercantile buildings it is reasonable to require the lighting systems of such spaces to be upgraded during such renovations.

§2. Chapter 3 of title 28 of the administrative code of the city of New York is amended by adding a new article 310 to read as follows:

ARTICLE 310

REQUIRED UPGRADE OF LIGHTING SYSTEMS

§28-310.1 *General.* Lighting systems in covered buildings shall be upgraded as provided for in this article.

§28-310.2 *Definitions.* As used in this article the following terms shall have the following meanings unless the context or subject matter requires otherwise:

**COVERED BUILDING.** An existing building that exceeds 50,000 gross square feet, as determined by the department of finance, or two or more buildings on the same tax lot that together exceed 50,000 gross square feet.

**PROJECT.** A design and construction undertaking comprised of work related to renovation of tenant space within a covered building. A project is represented by one or more plan/work applications, including construction documents compiled in accordance with section BC 106 of the New York City Building Code, that relate to the renovation of tenant space within a covered building. Applications for a project may have different registered design professionals and different job numbers, and may result in the issuance of one or more permits.

**RENOVATION.** Performance of any work pursuant to a work permit issued in accordance with article 105 of chapter 1 of this title or that would otherwise require a permit pursuant to such article

**Exception:** Performance of work pursuant to a limited plumbing, sprinkler or standpipe alteration.

**TENANT SPACE.** A suite of offices, mercantile space or other contiguous space classified within occupancy group B and/or M that is let or sublet by the owner of the covered building or a lessee of such space to another person. For the purposes of this article two or more tenant spaces in a building let or sublet to the same person shall be considered to be a single tenant space.

**UPGRADE.** The installation or modification of the lighting system of a covered building or of a tenant space within a covered building, as applicable, to comply with the standards required for new systems including all of the following elements: lighting controls (interior lighting controls, light reduction controls and automatic lighting shutoff), tandem wiring, exit signs, interior lighting power requirements and, as applicable, exterior lighting.

§28-310.3 *Upgrade of lighting system within tenant space required.* On and after July 1, 2010 and prior to December 31, 2022, whenever there is a renovation project of any kind within a tenant space of a covered building, regardless of whether such renovation project would otherwise involve electrical work., the lighting system of such space shall be upgraded to comply with the standards for new systems set forth in section 805 of the New York city energy conservation code or ASHRAE/ IESNA 90.1 as referenced in Chapter 10 of such energy code.

**Exceptions:** 1. An upgrade of the lighting system of a tenant space is not required if the estimated cost of the renovation project, not including the estimated cost of upgrading the lighting system, is less than \$50,000.

2. If the renovation project is confined to a part of the tenant space bounded by permanent floor-to-ceiling partitions and/or closable doors, only the lighting system within the boundaries of such confined space shall be required to be upgraded to comply with the standards for new systems. If the renovation project is in a part of the tenant space open to other parts of the tenant space without intervening partitions and/or doors the lighting system of the entire open space shall be upgraded to comply with the standards for new systems.

3. No upgrade is required for:

3.1 elements of the lighting system that are in compliance with the standards of the New York city energy conservation code for new systems as in effect on or after July 1, 2010, or

3.2 with respect to lighting power density, lighting power densities in any part of any tenant space bounded by permanent floor-to-ceiling partitions and/or closable doors that are in compliance with the standards of the New York city energy conservation code for new systems as in effect on or after July 1, 2010.

§28-310.4 *Upgrade of lighting systems of covered buildings required.* On or prior to December 31, 2022, the owner of a covered building shall complete the upgrade of the lighting system of the entire covered building (except in dwelling units classified within occupancy groups R-2 or R-3), including exterior lighting, to comply with the standards for new systems set forth in section 805 of the New York city energy conservation code or ASHRAE/ IESNA 90.1 as referenced in Chapter 10 of such energy code and shall file, on or prior to such date, a report with the department prepared by a registered design professional certifying that such upgrade has been completed.

**Exceptions.** No upgrade is required for:

1. An element of the lighting system that is in compliance with the standards of the New York city energy conservation code for new systems as in effect on or after July 1, 2010, or

2. With respect to lighting power density, lighting power densities in any part of any space bounded by permanent floor-to-ceiling partitions and/or

*closable doors that are in compliance with the standards of the New York city energy conservation code for new systems as in effect on or after July 1, 2010.*

§3. This local law shall take effect on the later of July 1, 2010 or one year following its enactment into law and shall apply to applications for permits for the renovation of tenant space submitted on and after such effective date.

Referred to the Committee on Environmental Protection

Int. No. 974

By Council Members Sears, James, Weprin and Nelson.

**A Local Law to amend the administrative code of the city of New York, in relation to the removal of snow and ice from motor vehicles.**

Be it enacted by the Council as follows:

Section 1. Chapter one of title 19 of the administrative code of the city of New York is amended by adding a new section 19-163.2 to read as follows:

§19-163.2 *Prohibition on operating motor vehicles with snow and ice accumulation.* Prior to the operation of any motor vehicle on any street, road or highway in the city, all snow and ice accumulation shall be removed from the top of the vehicle, including the roof and hood of such vehicle. Failure to comply with this section shall be a traffic infraction punishable in accordance with section eighteen hundred of the vehicle and traffic law. This section shall not require the driver of a motor vehicle to cease operation while snow or ice is accumulating.

§2. This local law shall take effect immediately.

Referred to the Committee on Transportation

Res. No. 1934

**Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2008 and Fiscal 2009 Expense Budgets.**

By Council Member Weprin.

**Whereas,** On June 29, 2008, the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2009 with various programs and initiatives (the “Fiscal 2009 Expense Budget”); and

**Whereas,** The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2009 Expense Budget by approving the new designation and changes in the designation of certain organizations receiving local, aging and youth discretionary funding, and by approving the addition of fiscal conduits for certain organizations receiving funding pursuant to certain initiatives in accordance therewith; and

**Whereas,** On June 15, 2007, the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2008 with various programs and initiatives (the “Fiscal 2008 Expense Budget”); and

**Whereas,** The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2009 Expense Budget by approving the new designation and changes in the designation of certain organizations receiving funding pursuant to certain initiatives in accordance therewith; and be it

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding as set forth in Chart 1, attached hereto as Exhibit A; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving aging discretionary funding as set forth in Chart 2, attached hereto as Exhibit B; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving youth discretionary funding as set forth in Chart 3, attached hereto as Exhibit C; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural After School Adventure Initiative, as set forth in Chart 4, attached hereto as Exhibit D; and be it further

**Resolved,** That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Immigrant

Opportunity Initiative, as set forth in Chart 5 attached hereto as Exhibit E; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Domestic Violence and Empowerment (DoVE) Initiative, as set forth in Chart 6, attached hereto as Exhibit F; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Adult Literacy Initiative, as set forth in Chart 7, attached hereto as Exhibit G; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Food Pantries Initiative, as set forth in Chart 8, attached hereto as Exhibit H; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the HIV/AIDS Faith Based Initiative, as set forth in Chart 9, attached hereto as Exhibit I; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Dropout Prevention and Intervention Initiative, as set forth in Chart 10, attached hereto as Exhibit J; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Alcoholism/Substance Abuse Initiative, as set forth in Chart 11, attached hereto as Exhibit K; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Adult Literacy Initiative, as set forth in Chart 12, attached hereto as Exhibit L; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Adult Literacy Initiative, as set forth in Chart 13, attached hereto as Exhibit M; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Space Costs for Senior Centers Initiative, as set forth in Chart 14, attached hereto as Exhibit N; and be it further

**Resolved**, That the City Council approves the changes in the designation of an organization receiving funding pursuant to the Transportation Costs Initiative, as set forth in Chart 15, attached hereto as Exhibit O; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Healthy Aging Initiative, as set forth in Chart 16, attached hereto as Exhibit P; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Information and Referral Contracts Initiative, as set forth in Chart 17, attached hereto as Exhibit Q; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Housing Preservation Initiative, as set forth in Chart 18, attached hereto as Exhibit R; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Comprehensive Podiatric Medical Screening Initiative, as set forth in Chart 19, attached hereto as Exhibit S; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Autism Awareness Initiative, as set forth in Chart 20, attached hereto as Exhibit T; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the NYA

Street Outreach Initiative, as set forth in Chart 21, attached hereto as Exhibit U; and be it further

**Resolved**, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Community Consultants Initiative, as set forth in Chart 22, attached hereto as Exhibit V; and be it further

**Resolved**, That the City Council approves the Initiative Fund Transfer between the Transportation Costs Initiative and the Spaces Costs for Seniors Initiative, as set forth in Chart 23, attached hereto as Exhibit W; and be it further

**Resolved**, That the City Council approves the new designation of certain organizations receiving funding pursuant to the HIV/AIDS Communities of Color Initiative, as set forth in Chart 24.

**Resolved**, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Anti-Gang Initiative of the Fiscal 2008 Expense Budget, as set forth in Chart 25, attached hereto as Exhibit Y; and be it further

**Resolved**, That the City Council approves the new designation of Empire State Coalition of Youth and Family Services within the Homeless and Runway Youth Population Count Initiative of the Fiscal 2008 Expense Budget, as set forth in Chart 26, attached hereto as Exhibit Z.

Adopted by the Council (preconsidered and approved by the Committee on Finance; for text of the Attachment, please see the Report of the Committee on Finance for Res No. 1934 printed in these Minutes).

Res. No. 1935

**Resolution calling on the New York State Assembly to pass A.5518 (Lentol) and the New York State Senate to introduce and pass a companion bill and the Governor to sign this bill into law and amend the New York State Penal Code to elevate the assault of a sanitation worker to a class C felony.**

By Council Members Weprin, Katz, Mark-Viverito, Nelson, Felder, Fidler, Gennaro, Gentile, Mealy, Mitchell, Stewart and White.

**Whereas**, A number of New York City employees have jobs that fall under the classifications of Uniformed Services including police officers, peace officers, emergency medical services professionals and firefighters; and

**Whereas**, Due to the nature of their jobs the members of the Uniformed Services often put their safety at risk while on duty and deserve a great amount of respect for their service to New Yorkers; and

**Whereas**, When a member of the Uniformed Services is harmed in the line of duty there must be tools in place to punish those who harm them; and

**Whereas**, Under the New York State Penal Code, if one of these uniformed employees is assaulted on the job, the individual arrested for assaulting that employee can be charged with and convicted of a class C felony; and

**Whereas**, Members of the Municipal Sanitation Department, "New York's Strongest," are currently not included with the other Uniformed Service members listed in the Penal Code; and

**Whereas**, Sanitation workers perform crucial work for the city in ensuring its cleanliness, which in turn enhances the quality of life of all New Yorkers; and

**Whereas**, In the course of performing these services for the citizens of the city, sanitation workers can be the victims of violence and assault while on duty; and

**Whereas**, It is common for sanitation workers to be verbally and even physically abused while performing their jobs; and

**Whereas**, A recent example of these dangers is the case of a 74 year-old sanitation worker named Juan Ramos; and

**Whereas**, In September of 2008, Mr. Ramos was attacked and assaulted with a shovel by a motorist who was angry that Mr. Ramos's sanitation truck was blocking his path down the street; and

**Whereas**, Mr. Ramos, who was a 22 year member of the sanitation department at the time suffered many broken ribs and was hospitalized due to this attack; and

**Whereas**, After the case of Mr. Ramos was made public, Assemblyman Joseph Lentol introduced bill number A.5518 in the New York State Assembly which would raise the penalty for assaulting a sanitation worker from a Class D felony to a Class C felony, the same penalty levied on those who assault peace officers or firefighters; and

**Whereas**, A.5518 would give sanitation workers the guarantee that if ever assaulted on the job, the perpetrator could be prosecuted with meaningful penalties that would discourage others from harming a sanitation worker while they are performing important services for the people of New York; now, therefore, be it



**Resolved,** That the Council of the City of New York calls on the New York State Assembly to pass A.5518 (Lentol) and the New York State Senate to introduce and pass a companion bill and the Governor to sign this bill into law and amend the New York State Penal Code to elevate the assault of a sanitation worker to a class C felony.

Referred to the Committee on Public Safety

Res. No. 1936

**Resolution supporting New York City's application for funding for capital projects under the Restore New York Community Initiative pursuant to the New York State Urban Development Act, for Arverne East, in the borough of Queens, and Bush Terminal, in the borough of Brooklyn.**

By Council Member White, Gonzalez, Liu, Weprin and Comrie.

**Whereas,** The 2006-07 New York State Budget enacted the Restore New York's Communities Initiative (Restore NY), which is implemented by the New York State Empire State Development Corporation (ESDC) and intended to provide funding for capital projects under the New York State Urban Development Corporation Act; and

**Whereas,** Under Round 3 of Restore NY funding, New York City is permitted to submit applications for the funding of two capital projects, receiving up to \$10 million per project; and

**Whereas,** New York City has submitted a notice of intent to apply to ESDC for funding Arverne East, in the borough of Queens, and Bush Terminal, in the borough of Brooklyn; and

**Whereas,** \$10 million is being sought by New York City in connection with the site for infrastructure, site work and reconstruction of 103 2-family homes, each with an owner-occupied unit and a rental unit, as part of Arverne East Phase 1A; and

**Whereas,** Arverne East Phase 1A is located on portions of Blocks 15859, 15860, and 15861, located on the Rockaway Peninsula, in Queens; and

**Whereas,** Arverne East Phase 1A will be developed within and in accordance with the Arverne Urban Area/Plan (URA/URP) and is located in a New York State Empire Zone; and

**Whereas,** The first 206 dwelling units are expected to begin construction in fiscal year 2010; and

**Whereas,** Arverne East Phase 1A has a total projected budget of \$55 million, and the developers, Arverne East (a joint-venture), are applying for Affordable Housing Corporation Funds, and will secure private bank financing, and will commit owner equity to the project; and

**Whereas,** Once completed, the homes will be offered through a lottery process to individuals and families as affordable in accordance with the New York State Affordable Housing Corporation income restrictions and a Homeowners Association will be formed; and

**Whereas,** The Bush Terminal Industrial Campus (The Campus) is located in Sunset Park, Brooklyn, and bounded by 41<sup>st</sup> Street, First Avenue, 52<sup>nd</sup> Street, and the Gowanus Bay; and

**Whereas,** The Campus has played a role as a sanctuary for industrial businesses that have been forced out of higher priced locations; and

**Whereas,** The Campus falls within several federal, state, and local zones that make it eligible for a variety of financial incentives; and

**Whereas,** The Campus is in New York State Brownfield Opportunity Area and is located in a New York State Empire Zone, and is in Federal New Market Tax Credit eligible area, as well as part of the local South West Brooklyn Industrial Business Zone; and

**Whereas,** Since 2001, the New York City Economic Development Corporation has directly managed the 10 properties within the Campus totaling 1.2 million square feet on 32 acres of land; and

**Whereas,** These properties currently support almost 600 industrial-related jobs; and

**Whereas,** Buildings 39/40 and 45 are largely obsolete industrial buildings totaling 37,100 square feet; and

**Whereas,** Buildings 39/40, and 45 are situated on a 130,000 square foot site in the center of the Campus (the Site); and

**Whereas,** The Site is zoned to accommodate 260,000 square feet of light industrial space, which provides an opportunity to bring a new modern industrial building to the campus; and

**Whereas,** \$10 million is being sought by New York City in connection with the Site, and the funds will be put towards the demolition of existing buildings and asbestos removal, as well as upgrades of power, water, and sewer infrastructure and construction of a new building at the Site; and

**Whereas,** The Council finds that the proposed Arverne East and Bush Terminal projects are consistent with New York City's long-term sustainability plan (known as "PlaNYC") and with the City's Zoning Resolution, and, in addition, the Arverne

East project is consistent with the Arverne Urban Renewal Plan, and the Bush Terminal Site project is consistent with the New York City Industrial Policy and the City's Waterfront Revitalization Plan; and

**Whereas,** The Council finds that the proposed financing is appropriate for the Arverne East and Bush Terminal projects; and

**Whereas,** The Council finds the Arverne East and Bush Terminal projects facilitate effective and efficient use of existing and future public resources so as to promote both economic development and the preservation of community resources; and

**Whereas,** The Council also finds that the Arverne East and Bush Terminal projects develop and enhance infrastructure and other facilities in a manner that will attract, create, and sustain employment opportunities; now, therefore, be it

**Resolved,** That the Council of the City of New York supports New York City's application for funding for capital projects under the Restore New York Community Initiative pursuant to the New York State Urban Development Act, for Arverne East, in the borough of Queens, and Bush Terminal, in the borough of Brooklyn.

Adopted by the Council (preconsidered and approved by the Committee on Economic Development.)

Res. No. 1937

**Resolution calling upon the New York State Legislature to enact S.1363-B/A.6297-A, which provides special protections to tenants of properties that have been foreclosed upon.**

By Council Members White, Brewer, Comrie, James, Nelson, Weprin and Yassky.

**Whereas,** Large numbers of Americans are now facing the threat of foreclosures due to the unaffordable mortgage loans made in the last several years; and

**Whereas,** In addition to homeowners, renters living in foreclosed single-family homes and multi-family buildings are also routinely faced with eviction, even though they are in good standing and regularly pay their rent on time; and

**Whereas,** At the end of a foreclosure process, a landlord may receive an eviction notice from the foreclosing bank to clear the property; and

**Whereas,** Many times, however, the property is not owner-occupied and therefore, rental tenants are the ones at risk of being evicted; and

**Whereas,** There have been numerous incidents in which the property owner does not notify the tenant of a foreclosure action and the tenant does not otherwise find out about the foreclosure proceeding until there is a notice affixed to his or her door or the tenant is served with legal process initiating an eviction proceeding; and

**Whereas,** According to the Mortgage Bankers Association, almost 20% of foreclosures involve rental properties and another study by the National Low Income Housing Coalition found that nearly 40% of recent foreclosures nationwide are likely to be rental homes; and

**Whereas,** A study by New York University's Furman Center for Real Estate and Urban Policy found that, in New York City, 60% of nearly 15,000 mortgage-related foreclosure filings in 2007 were for multi-family buildings and half of the 30,000 households living in properties that entered the foreclosure process in 2007 were living in rental units; and

**Whereas,** This is a serious problem since many tenants, especially those in one and two-family buildings, are not protected from eviction after a property is foreclosed upon, leaving these households without stable housing and decreasing the amount of decent, affordable rentals in the City; and

**Whereas,** Legislation pending in the State Senate, S.1363-B, and in the State Assembly, A.6297-A, would require providing notices to all affected tenants of a foreclosed upon property and supply information about any plans for evicting them; and

**Whereas,** The legislation specifically requires a new owner to provide written notice to tenants, within thirty days of taking ownership, informing them of the change in ownership; and

**Whereas,** The tenant is not liable for paying rent to the new owner until the notice is served and acknowledgment of the notice is received; and

**Whereas,** In addition, a new owner must provide written notice of an intent to evict a tenant thirty days before the start of eviction proceedings and must file a proof of service of the notice; and

**Whereas,** This legislation only applies to those tenants who were not a part of the eviction proceedings or a member of the owner's family; and

**Whereas,** While the legislation does not prevent evictions, it ensures that tenants receive the proper notification so that evictions do not happen automatically, therefore, creating necessary safeguards for the large number of renters currently at risk; now, therefore, be it

**Resolved,** That the Council of the City of New York calls upon the New York State Legislature to enact S.1363-B/A.6297-A, which provides special protections to tenants of properties that have been foreclosed upon.

Referred to the Committee on Housing and Buildings

Int. No. 975

By Council Members Yassky, Brewer, Comrie, Fidler, James and White.

**A Local Law to amend the administrative code of the city of New York, in relation to providing a commercial production credit.**

*Be it enacted by the Council as follows:*

Section 1. Section 11-604 of the administrative code of the city of New York is amended by adding a new subdivision 21 to read as follows:

21. *Commercial production credit. (a)(1) Allowance of credit. A taxpayer which is a qualified commercial production company, and which is subject to tax under this subchapter, shall be allowed a credit against such tax, pursuant to the provisions in subdivision (c) of this section, to be computed as hereinafter provided. Provided, however, to be eligible for such credit, at least seventy-five percent of the production costs (excluding post production costs) paid or incurred directly and predominantly in the actual filming or recording of the qualified commercial must be incurred in the city of New York.*

*(2) The amount of the credit shall be the product of five percent of the qualified production costs paid or incurred in the production of a qualified commercial, provided that the qualified production costs paid or incurred are attributable to the use of tangible property or the performance of services within the city of New York in the production of such qualified commercial. To be eligible for said credit the total qualified production costs of a qualified production company must be greater in the aggregate during the current calendar year than the average of the three previous years for which the credit was applied. Provided, however, that until a qualified production company has established a three year history, the credit will be based on either the previous year or the average of the two previous years, whichever is greater. If the qualified production company has never applied for the growth credit, the previous year data will be used to create a benchmark. The tax credit shall be applied only to the amount of the total qualified production costs of the current calendar year that are greater than the total amount of production costs of the preceding calendar year. The tax credit must be distributed to eligible production companies on a pro rata basis, provided, however, that no such qualified production company shall receive more than three hundred thousand dollars annually for such credit. The credit shall be allowed for the taxable year in which the production of such qualified commercial is completed.*

*(3) No qualified production costs used by a taxpayer either as the basis for the allowance of the credit provided for under this subdivision or used in the calculation of the credit provided for under this subdivision shall be used by such taxpayer to claim any other credit allowed pursuant to this title. Notwithstanding any provisions of this subdivision to the contrary, a corporation, which otherwise qualifies as a qualified commercial production company, and is similar in operation and in ownership to a business entity or entities taxable, or previously taxable, under this subchapter shall not be deemed a new or separate business, and therefore shall not be eligible for commercial production benefits, if it was not formed for a valid business purpose, as such term is defined in clause (D) of subparagraph one of paragraph (o) of subdivision nine of section two hundred eight of the tax law and was formed solely to gain commercial production benefits.*

*(b) Definitions. As used in this subdivision, the following terms shall have the following meanings:*

*(1) "Qualified production costs" means production costs only to the extent such costs are attributable to the use of tangible property or the performance of services within the city of New York directly and predominantly in the production (including pre-production and post production) of a qualified commercial.*

*(2) "Production costs" means any costs for tangible property used and services performed directly and predominantly in the production (including pre-production and post production) of a qualified commercial. "Production costs" shall not include (i) costs for a story, script or scenario to be used for a qualified commercial and (ii) wages or salaries or other compensation for writers, directors, including music directors, producers and performers (other than background actors with no scripted lines who are employed by a qualified company and musicians). "Production costs" generally include technical and crew production costs, such as expenditures for commercial production facilities and/ or location costs, or any part thereof, film, audiotape, videotape or digital medium, props, makeup, wardrobe, commercial processing, camera, sound recording, scoring, set construction, lighting, shooting, editing and meals. For purposes of this subdivision, "post production costs" include the production of original content for a qualified commercial employing techniques traditionally used in post-production for visual effects, graphic design, animation, and musical composition. Provided, however, that "post production costs" shall not include the editing of previously produced content for a qualified commercial.*

*(3) "Qualified commercial" means an advertisement that is recorded on film, audiotape, videotape, or digital medium in the city of New York for multi-market*

*distribution by way of radio, television networks, cable, satellite or motion picture theaters. "Qualified commercial" shall not include (i) news or current affairs program, interview or talk program, network promos, i.e., commercials promoting television series or movies, "how-to" (i.e., instructional) commercial or program, commercial or program consisting entirely of stock footage, trailers promoting theatrical films, sporting event or sporting program, game show, award ceremony, daytime drama (i.e., daytime "soap opera"), or "reality" program, or (ii) a production for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production (reporting of books, commercials, etc. with respect to sexually explicit conduct).*

*(4) "Qualified commercial production company" shall mean a corporation which is principally engaged in the production of a qualified commercial and controls the production of the qualified commercial and is not the distributor contracting entity for production of such commercial.*

*(c) Application of credit. (1) The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the amount prescribed in clause (4) of subparagraph (a) of paragraph E of subdivision one of this section. Provided, however, that if the amount of the credit allowable under this subdivision for any taxable year reduces the tax to such amount, fifty percent of the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section 11-677 of this chapter; provided, however, the provisions of section 11-679 of this chapter notwithstanding, no interest shall be paid thereon. The balance of such credit not credited or refunded in such taxable year may be carried over to the immediately succeeding taxable year and may be credited against the taxpayer's tax for such year. The excess, if any, of the amount of the credit over the tax for such succeeding year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section 11-677 of this chapter. Provided, however, the provisions of section 11-679 of this chapter notwithstanding, no interest shall be paid thereon.*

*(2) Notwithstanding anything contained in this section to the contrary, the credit provided by this subdivision shall be allowed against the taxes authorized by this chapter for the taxable year after reduction by all other credits permitted by this chapter.*

§2. Section 11-503 of the administrative code of the city of New York is amended by adding a new subdivision (o) to read as follows:

*(o) Commercial production credit. (1) Allowance of credit. A taxpayer which is a qualified commercial production company, and which is subject to tax under this chapter, shall be allowed a credit against the unincorporated business income tax imposed pursuant to this chapter, in accordance with the provisions in paragraph (5) of this subdivision, to be computed as hereinafter provided. Provided, however, to be eligible for such credit, at least seventy-five percent of the production costs (excluding post production costs) paid or incurred directly and predominantly in the actual filming or recording of the qualified commercial must be qualified production costs.*

*(2) The amount of the credit shall be the product of five percent of the qualified production costs paid or incurred in the production of a qualified commercial, provided that the qualified production costs paid or incurred which are attributable to the use of tangible property or the performance of services within the city of New York in the production of such qualified commercial. To be eligible for said credit the total qualified production costs of a qualified production company must be greater in the aggregate during the current calendar year than the average of the three previous years for which the credit was applied. Provided, however, that until a qualified production company has established a three year history, the credit will be based on either the previous year or the average of the two previous years, whichever is greater. If the qualified production company has never applied for the growth credit, the previous years data will be used to create a benchmark. The tax credit shall be applied only to the amount of the total qualified production costs of the current calendar year that are greater than the total amount of production costs of the preceding calendar year. The tax credit must be distributed to eligible production companies on a pro rata basis, provided, however, that no such qualified production company shall receive more than three hundred thousand dollars annually for such credit. The credit shall be allowed for the taxable year in which the production of such qualified commercial is completed.*

*(3) No qualified production costs used by a taxpayer either as the basis for the allowance of the credit provided for under this subdivision or used in the calculation of the credit provided for under this subdivision shall be used by such taxpayer to claim any other credit allowed pursuant to this title. Notwithstanding any provisions of this subdivision to the contrary, an unincorporated business, which otherwise qualifies as a qualified commercial production company, and is similar in operation and in ownership to a unincorporated business entity or entities taxable, or previously taxable, under this chapter shall not be deemed a new or separate business, and therefore shall not be eligible for commercial production benefits, if it was not formed for a valid business purpose, as such term is defined in clause (D) of subparagraph one of paragraph (o) of subdivision nine of two hundred eight of the tax law and formed solely to gain commercial production benefits.*

*(4) Definitions. As used in this subdivision, the following terms shall have the following meanings:*

*(A) "Qualified production costs" means production costs only to the extent such costs are attributable to the use of tangible property or the performance of services within the city of New York directly and predominantly in the production (including pre-production and post production) of a qualified commercial.*

*(B) "Production costs" means any costs for tangible property used and services performed directly and predominantly in the production (including pre-production and post production) of a qualified commercial. "Production costs" shall not include*

(i) costs for a story, script or scenario to be used for a qualified commercial and (ii) wages or salaries or other compensation for writers, directors, including music directors, producers and performers (other than background actors with no scripted lines who are employed by a qualified company and musicians). "Production costs" generally include technical and crew production costs, such as expenditures for commercial production facilities and/ or location costs, or any part thereof, film, audiotape, videotape or digital medium, props, makeup, wardrobe, commercial processing, camera, sound recording, scoring, set construction, lighting, shooting, editing and meals. For purposes of this subdivision "post production costs" include the production of original content for a qualified commercial employing techniques traditionally used in post-production for visual effects, graphic design, animation, and musical composition. Provided, however, that "post production costs" shall not include the editing of previously produced content for a qualified commercial.

(C) "Qualified commercial" means an advertisement that is recorded on film, audiotape, videotape, or digital medium in the city of New York for multi-market distribution by way of radio, television networks, cable, satellite or motion picture theaters. "Qualified commercial" shall not include (i) news or current affairs program, interview or talk program, network promos, i.e., commercials promoting television series or movies, "how-to" (i.e., instructional) commercial or program, commercial or program consisting entirely of stock footage, trailers promoting theatrical films, sporting event or sporting program, game show, award ceremony, daytime drama (i.e., daytime "soap opera"), or "reality" program, or (ii) a production for which records are required under section 2257 of title 18, United States code, to be maintained with respect to any performer in such production (reporting of books, commercials, etc. with respect to sexually explicit conduct).

(D) "Qualified commercial production company" is an unincorporated business which is principally engaged in the production of a qualified commercial and controls the production of the qualified commercial and is not the distributor contracting entity for productions of such commercial.

(5) Application of credit. (A) If the amount of the credit allowable under this subdivision for any taxable year exceeds the taxpayer's tax for such year, fifty percent of the excess shall be treated as an overpayment of tax to be credited or refunded as provided in section 11-526 of this chapter, provided, however, that notwithstanding the provisions of section 11-528 of this chapter, no interest shall be paid thereon. The balance of such credit not credited or refunded in such taxable year may be carried over to the immediately succeeding taxable year and may be deducted from the taxpayer's tax for such year. The excess, if any, of the amount of the credit over the tax for such succeeding year shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section 11-526 of this chapter, provided, however, that notwithstanding the provisions of section 11-528 of this chapter, no interest shall be paid thereon.

(B) Notwithstanding anything contained in this section to the contrary, the credit provided by this subdivision shall be allowed against the taxes authorized by this chapter for the taxable year after reduction by all other credits permitted by this chapter.

§3. Clause (i) of subparagraph (B) of paragraph (3) of subdivision (c) of section 11-1706 of the administrative code of the city of New York, as amended by chapter 2 of the laws of 2005, is amended to read as follows:

(i) the sum of (I) the tax imposed by chapter five of this title on such unincorporated business for its taxable year ending within or with the taxable year of the partner and paid by the unincorporated business and (II) the amount of any credit or credits taken by the unincorporated business under subdivisions (j), [and] (m) and (o) of section 11-503 of this title for its taxable year ending within or with the taxable year of the partner, but, in the case of any credit taken under subdivision (m) and (o) of such section, not including any amount of such credit that is or was treated as an overpayment of tax of such unincorporated business; and

§4. Maximum amount of credits. The aggregate amount of tax credits allowed pursuant to sections one and two of this legislation in any calendar year shall be \$3 million for 2009 through 2011 allocated equally to the credit substantially identical to credits allowed under subparagraph (i) of paragraph 2 of subdivision (a) of section 28 of the tax law. Such aggregate amount of credits shall be allocated by the mayor's office of film, theatre and broadcasting among taxpayers on a pro rata basis. If the total amount of allocated credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for such year under this section, such excess shall be treated as having been applied for on the first day of the subsequent year.

§5. The Mayor's Office of Film, Theatre and Broadcasting shall, in accordance with subdivision (e) of section 8 of Chapter 440 of the Laws of 2006, promulgate rules to establish procedures for the allocation of tax credits as required by section 4 of this local law. Such rules shall include provisions describing the application process, the due dates for such applications, the standards which shall be used to evaluate the applications, the documentation that will be provided to taxpayers to substantiate the amount of tax credits allocated to such taxpayers, and such other provisions as deemed necessary and appropriate.

§6. This local law shall take effect immediately and shall expire and be deemed repealed on December 31, 2011.

Referred to the Committee on Finance

Int. No. 976

By Council Members Yassky, Fidler, James, Koppell, Lappin and Liu.

**A Local Law to amend the administrative code of the city of New York, in relation to energy efficient escalators.**

Be it enacted by the Council as follows:

Section 1. Subchapter three of chapter three of title 6 of the administrative code of the city of New York is amended by adding a new section 6-306.1 to read as follows:

§6-306.1 Energy efficient escalators. a. For use in this section, the following terms shall be defined as follows:

(1) "Energy efficient escalator technology" shall mean technology that decreases the overall energy consumption of energy by an escalator, including, but not limited to, the installation of a variable-frequency drive and load monitoring or soft start technology.

(2) "Soft start technology" shall mean an energy saving escalator device that does not decrease the speed of the escalator but reduces the power consumed by the escalator when there are fewer people riding on the escalator.

b. All agencies that manage or control city-owned buildings shall devise and implement a plan for the implementation of energy efficient escalator technology in each escalator in any such building that has or will have one or more escalators.

§ 2. This local law shall take effect January 1, 2010, except that the commissioner of citywide administrative services may promulgate any rules or take any actions needed to implement this local law prior to such effective date.

Referred to the Committee on Environmental Protection

L.U. No. 1055

By Council Member Katz:

**Uniform Land Use Review Procedure application no. C 090227 HAK, an Urban Development Action Area Designation and Project, located at 115, 117, 119, 123, 125, 129 Fountain Avenue; 922 – 932 Liberty Avenue; 66 – 72 Crystal Street, and the disposition of the city-owned property, Borough of Brooklyn, Council District no. 37. This matter is subject to Council Review and action pursuant to §197-c and §197-d of the New York City Charter and Article 16 of the General Municipal Law.**

Adopted by the Council (preconsidered by the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.)

L.U. No. 1056

By Council Member Katz:

**Application no. N 090239 ZRY submitted by Department of City Planning the pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to modifications of Article VI, chapter 2 (special Regulations Applying in the Waterfront Area), and various related Sections of the Zoning Resolution.**

Adopted by the Council (preconsidered by the Committee on Land Use and the Subcommittee on Zoning and Franchises).

L.U. No. 1057

By Council Member Katz:

**Application no. C 090281 ZMQ submitted by the Department of city Planning, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 7d, 11a and 11c.**

Adopted by the Council (preconsidered by the Committee on Land Use and the Subcommittee on Zoning and Franchises).

L.U. No. 1058

By Council Member Katz

**Application no. N 090282 ZRY submitted by Department of City Planning the pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to the creation of an R1-2A Zoning District.**

Adopted by the Council (preconsidered by the Committee on Land Use and the Subcommittee on Zoning and Franchises).

L.U. No. 1059

By Council Member Katz:

**Application no. 20095191 SCK, a proposed site for a new, approximately 535 seat Primary School Facility, known as P.S. 160-K Annex, to be located at 1061-1071 52nd Street (Block 5653, Lot 55), Council District No. 39, Borough of Brooklyn. This matter is subject to Council review and action pursuant Section 1732 of the New York State Public Authorities Law.**

Adopted by the Council (preconsidered by the Committee on Land Use and the Subcommittee on Public Siting and Maritime Uses).

L.U. No. 1060

By Council Member Katz:

**Application no. 20095290 SCM, a proposed site for a new, approximately 572-Seat Intermediate/High School Facility, known as Community Heath Academy of the Heights located at 1970 Amsterdam Avenue (Block 2116, Lot 33 in portion), Council District no. 7, Borough of Manhattan. This matter is subject to Council review and action pursuant Section 1732 of the New York State Public Authorities Law.**

Adopted by the Council (preconsidered by the Committee on Land Use and the Subcommittee on Public Siting and Maritime Uses).

L.U. No. 1061

By Council Member Katz:

**Application no. 20095359 HKM (N 090330 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.410, LP-2313) by the Landmarks Preservation Commission of the Consolidated Edison Building, located at 4 Irving Place a.k.a. 2-12 Irving Place, 121-147 East 14th Street, 120-140 East 15th Street (Block 870, part of Lot 24) Council District no 2.**

Adopted by the Council (preconsidered by the Committee on Land Use and the Subcommittee on Public Siting and Maritime Uses).

L.U. No. 1062

By Council Member Katz:

**Application no. 20095360 HKM (N 090331 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.410, LP-2294) by the Landmarks Preservation Commission of One Chase Manhattan Plaza, aka 16-48 liberty Street, 26-40 Nassau Street, 28-44 Pine Street, 55-77 William Street (Block 44, Lot1), Council District no 1.**

Adopted by the Council (preconsidered by the Committee on Land Use and the Subcommittee on Public Siting and Maritime Uses).

L.U. No. 1063

By Council Member Katz:

**Application no. 20095361 HKK (N 090329 HKK), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.410, LP-2309) by the Landmarks Preservation Commission of Alice and Agate Courts Historic District, Council District no 36.**

Adopted by the Council (preconsidered by the Committee on Land Use and the Subcommittee on Public Siting and Maritime Uses).

L.U. No. 1064

By Council Member Katz:

**Application no. C 090179 ZMK submitted by the Brighton Development LLC. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No.28d, by establishing within an R7-1 district a C2-4 District..**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1065

By Council Member Katz:

**Application no. M910478 (E) ZMK submitted by the Brighton Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the modification of Restrictive Declaration D – 131 and its subsequent amendments.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1066

By Council Member Katz:

**Uniform Land Use Review Procedure application no. C 090250 ZMK pursuant to §197-c and §197-d of the New York City Charter, concerning changes to the zoning map, Section 28d, Borough of Brooklyn, Council District no. 47**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions

L.U. No. 1067

By Council Member Katz:

**Uniform Land Use Review Procedure application no. C 090251 HAK, an Urban Development Action Area Designation and Project, located on property generally bounded by Surf Avenue, West 29th Street, P.S. 329 and West 30th Street, and the disposition of such property, Borough of Brooklyn, Council District no. 47. This matter is subject to Council Review and action pursuant to §197-c and §197-d of the New York City Charter and Article 16 of the General Municipal Law.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions

L.U. No. 1068

By Council Member Katz:

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**Application no. 20095281 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for BM Café, Inc. to establish, maintain and operate an unenclosed sidewalk café located at 768 Ninth Avenue, Borough of Manhattan, Council District no. 3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1069

By Council Member Katz:

**Application no. 20095085 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for the Shoreham LLC., to establish, maintain and operate an unenclosed sidewalk café located at 39 West 55th Street, Borough of Manhattan, Council District no. 4. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1070

By Council Member Katz:

**Application no. C 090125 ZMM submitted by the New York City Housing Authority and Phipps Houses and Urban Builders Collaborative, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No.6b, changing from R7A District to a R8A District.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1071

By Council Member Katz:

**Application no. N 090316 ZRY submitted by Department of City Planning the pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, an amendment to the Inclusionary Housing Text Amendment to include the creation of homeownership option for affordable units.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1072

By Council Member Katz:

**Application no. N 090317 ZRY submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York relating to Article III, Chapter 7 (Special Urban Design Regulations concerning provisions related to privately owned public plazas.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1073

By Council Member Katz:

**Application no. C 090181 ZMK submitted by Two Trees Management Company pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 12d changing from an M1-2 District to an M1-2/R8 and establishing a Special Mixed Use District (MX-2).**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1074

By Council Member Katz:

**Application no. C 090183 ZSK submitted by Two Trees Management Company pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-512 of the Zoning Resolution to allow a public parking garage with a maximum capacity of 465 spaces including 129 accessory spaces, and to allow 37,599 square feet of floor space up to a height of 23 feet above base plane level to be exempted from the definition of floor area as set forth in Section 12-10.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1075

By Council Member Katz:

**Application no. C 090184 ZSK submitted by Two Trees Management Company pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-743\*\* of the Zoning Resolution to modify the regulations of Section 23, Section 23-86, Section 25-533, Section 43-28 and Section 123-66 to facilitate a mixed use development on property located on the easterly side of Dock Street between Front Street and Water Street (Block 36, Lots 1, 3, 14, 49, 52 & 53), in an M1-2/R8 (MX-2) District\*, within a general large scale development (Block 36, Lots 1, 3, 14, 15, 16, 40, 49, 52, & 53, and Block 26, Lots 33 & 38), in M1-2/R8 (MX-2)\*, M1-2/R8A (MX-2), and M3-1 Districts, Borough of Brooklyn, Community District 2.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1076

By Council Member Katz:

**Application no. N 090165 ZRM submitted by Maz Mezcal Restaurant pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article I, Chapter 4 (Sidewalk Café Regulations), relating to Section 14-43 to permit small sidewalk cafes on the south side of East 86th Street from First Avenue to a line 125 feet east of Second Avenue.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1077

By Council Member Katz:

**Application no. C 050260 ZSM submitted by Fordham University pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 82-33 of the Zoning Resolution to modify the height and setback requirements of Section 23-632, the inner and outer court regulations of Section 23-841, Section 23-843, Section 23-851, Section 23-852, Section 24-63, Section 24-633, Section 24-652, and Section 23-863, the minimum distance between buildings on a zoning lot requirements of Section 23-711 and the minimum distance between legally required windows and zoning lot lines requirements of Section 23-861 in**

connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1078

By Council Member Katz:

**Application no. C 050269 ZSM submitted by Fordham University pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 68 spaces on portions of the ground floor, cellar, and sub-cellar levels of a proposed mixed use building (Site 4, Garage A) in connection with the proposed expansion of Fordham University, Lincoln Center Campus.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1079

By Council Member Katz:

**Application no. C 050271 ZSM submitted by Fordham University pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 137 spaces on portions of the ground floor, cellar, subcellar and 2nd subcellar level of a proposed mixed use building (Site 3a/3, Garage C) in connection with the proposed expansion of Fordham University, Lincoln Center Campus.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1080

By Council Member Katz:

**Application no. C 090173 ZSM submitted by Fordham University pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 265 spaces on portions of the ground floor and cellar of a proposed mixed use building (Site 5a/5, Garage B) in connection with the proposed expansion of Fordham University, Lincoln Center Campus.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1081

By Council Member Katz:

**Application no. N 090170 ZRM submitted by Fordham University pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, Article VIII, Chapter 2, concerning Section 82-50 (Off-Street Parking and Off-Street Loading Regulations), to modify the requirements for curb cuts on wide streets for off-street loading berths in the Special Lincoln Square District, Borough of Manhattan, Community District 7.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1082

By Council Member Katz:

**Application no. N 080253 ZRQ submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, modifying special permit regulations pertaining to the Sunnyside Gardens area in Community District 2, Borough of Queens, and clarifying other regulations in Article X, Chapter 3 (Special Planned Community Preservation District).**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1083

By Council Member Katz:

**Application no C 090283 ZMQ submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City charter for an amendment of the Zoning Map, Section No.14a; by changing from an R1-2 District to an R1-2A District.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1084

By Council Member Katz:

**Application no. N 090304 ZRQ submitted by the New York City Department of City Planning pursuant to Section 200 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to Article XI, Chapter 7 to modify certain provisions concerning the Queens Plaza, Court Square, and Hunters Point subdistricts of the Special Long Island City Mixed Use District.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1085

By Council Member Katz:

**Application no. C 090366 PCQ submitted by the Department of Transportation and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the site selection and acquisition of property located at 130-31 Northern Boulevard (Block 1791, Lots 52 and 68) , for use as an asphalt plant.**

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses

L.U. No. 1086

By Council Member Katz:

**Application no. 20085511 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for 151 Mulberry Street Corp.. d.b.a Il Palazzo to establish, maintain and operate an unenclosed sidewalk café located at 151 Mulberry Street, Borough of**

**Manhattan, Council District no. 1. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1087

By Council Member Katz:

**Application no. 20085600 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Smorgas Chef West Village, LLC, to continue to maintain and operate an unenclosed sidewalk café located at 238 West 12th Street, Borough of Manhattan, Council District no. 3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1088

By Council Member Katz:

**Application no. 20095337 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of NYCMF Inc., to establish, maintain and operate an unenclosed sidewalk café located at 10 Downing Street, Borough of Manhattan, Council District no. 3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.**

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 1089

By Council Member Katz:

**Application no. 20095466 HAK, an Urban Development Action Area Project located at 1050 Hancock Street, Council District no. 37, Borough of Brooklyn. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 577 of the Private Housing Finance Law for a partial tax exemption.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions

L.U. No. 1090

By Council Member Katz:

**Application no. 20095467 HAK, known as Albany Crossings Apartments, a conveyance to a redevelopment company pursuant Article V of the Private Housing Finance Law, Council District no. 36, Borough of Brooklyn**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions

L.U. No. 1091

By Council Member Katz:

**Application no. 20095468 HAK, known as Kingston Heights Apartments, a conveyance to a redevelopment company pursuant to Article V of the Private Housing Finance Law, Council District no. 36, Borough of Brooklyn.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions

L.U. No. 1092

By Council Member Katz:

**Application no. 20095469 HAM an Urban Development Action Area Project located at 133-41 West 140th Street, Council District no. 9, Borough of Manhattan. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 577 of the Private Housing Finance Law for a partial tax exemption.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions

L.U. No. 1093

By Council Member Katz:

**Application no. 20095470 HAM, an Urban Development Action Area Project located at 211 West 135th Street Council District no. 9, Borough of Manhattan. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 577 of the Private Housing Finance Law for a partial tax exemption.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions

L.U. No. 1094

By Council Member Katz:

**Application no. 20095471 HAM, an Urban Development Action Area Project located at 2460 7<sup>th</sup> Avenue, Council District no. 7, Borough of Manhattan. This matter is subject to Council review and action pursuant to Article 16 of the New York General Municipal Law, at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 577 of the Private Housing Finance Law for a partial tax exemption.**

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions

At this point the Speaker (Council Member Quinn) made the following announcements:

**ANNOUNCEMENTS:**

**Thursday, April 23, 2009**

Committee on **TRANSPORTATION** jointly with the

Committee on **EDUCATION** .....10:00 A.M.  
**Int 121** - By Council Members Nelson, Avella, Dickens, Gentile, Sanders Jr., Stewart, Weprin and Liu - **A Local Law** to amend the administrative code of the city of New York, in relation to requiring the placement of two-way radios, cellular phones and tracking devices on school buses.  
 Hearing Room – 250 Broadway, 14<sup>th</sup> Floor ..... John C. Liu, Chairperson  
 .....Robert Jackson, Chairperson

★ Deferred  
 Committee on **SMALL BUSINESS** .....10:00 A.M.  
~~**Proposed Int 762-A** - By Council Members Oddo, Ignizio, Comrie, Felder, James, Jackson, Yassky, White Jr. and Gerson - **A Local Law** to amend the New York city charter, in relation to small business regulatory flexibility.~~  
 Hearing Room – 250 Broadway, 16<sup>th</sup> Floor .....David Yassky, Chairperson

★ Deferred  
 Committee on **COMMUNITY DEVELOPMENT** .....10:00 A.M.  
**Oversight** – Predatory Equity  
 Council Chambers – City Hall ..... Albert Vann, Chairperson

★ Note Time Change  
 Committee on **CULTURAL AFFAIRS, LIBRARIES & INTERNATIONAL INTERGROUP RELATIONS** jointly with the Committee on **PARKS AND RECREATION**..... ★ 10:00 A.M.  
**Oversight** - Challenges Preserving New York’s Living Collections  
 Council Chambers – City Hall ..... Domenic M. Recchia Jr., Chairperson  
 .....Helen Foster, Chairperson

★ Deferred  
 Committee on **WATERFRONTS** .....1:00 P.M.  
 Agenda to be announced  
 Committee Room – City Hall .....Michael Nelson, Chairperson

Committee on **HEALTH**..... 1:00 P.M.  
**Oversight** - Health Insurance Options for Young Adults  
 Hearing Room – 250 Broadway, 14<sup>th</sup> Floor ..... Joel Rivera, Chairperson

**Friday, April 24, 2009**

★ Addition  
 Committee on **FIRE AND CRIMINAL JUSTICE SERVICES**.....10:00 A.M.  
**Oversight** - Implementation and Impact of Revised Board of Correction Minimum Standards  
 Hearing Room – 250 Broadway, 16<sup>th</sup> Floor ..... James Vacca, Chairperson

**Monday, April 27, 2009**

★ Addition  
 Committee on **COMMUNITY DEVELOPMENT** .....10:00 A.M.  
**Oversight** – Equity Investment and Foreclosures: How New York City's Tenants are Affected by the Growing Financial Crisis  
 Council Chambers – City Hall ..... Albert Vann, Chairperson

Committee on **MENTAL HEALTH, MENTAL RETARDATION, ALCOHOLISM, DRUG ABUSE AND DISABILITY SERVICES** jointly with the Committee on **AGING** and Committee on **TRANSPORTATION** ..... 1:00 P.M.  
**Oversight** – Are Access-A-Ride consumers receiving the services to which they are entitled?  
 Council Chambers – City Hall ..... G. Oliver Koppell, Chairperson  
 .....Maria del Carmen Arroyo, Chairperson  
 ..... John C. Liu, Chairperson

**Tuesday, April 28, 2009**

★ Deferred  
 Committee on **GENERAL WELFARE**.....10:00 A.M.  
 Agenda to be announced  
 Council Chambers – City Hall ..... Bill de Blasio, Chairperson

★ Note Location Change  
 Committee on **FINANCE** jointly with the Committee on **ENVIRONMENTAL PROTECTION**.....10:00 A.M.  
**Oversight** - Examining New York City Water Board’s proposed water and sewer rate increase for fiscal year 2010  
 ★ Council Chambers – City Hall ..... David Weprin, Chairperson  
 .....James Gennaro, Chairperson

Committee on **SMALL BUSINESS** ..... 1:00 P.M.  
**Oversight** - The Effect of the Unincorporated Business Tax on Small Businesses and Sole Proprietors  
 Hearing Room – 250 Broadway, 14<sup>th</sup> Floor .....David Yassky, Chairperson

★ Note Location Change  
 Committee on **GOVERNMENTAL OPERATIONS** ..... 1:00 P.M.  
**Int 952** - By Council Members Sears, Brewer, Comrie, Felder, Fidler, Jackson, James, Liu, Palma, Sanders Jr., Weprin, White Jr. and Gerson - **A Local Law** to amend the New York City Charter, in relation to requiring the City Record to be published online and available to the public at no charge.  
 ★ Hearing Room – 250 Broadway, 16<sup>th</sup> Floor .....Helen Sears, Chairperson

★ Addition  
 Committee on **HIGHER EDUCATION** ..... 1:00 P.M.  
**Oversight** - Examining the Success and Challenges of Opportunity Programs at CUNY  
 Council Chambers – City Hall ..... Charles Barron, Chairperson

**Wednesday, April 29, 2009**

★ Addition  
 Committee on **GENERAL WELFARE** jointly with the Committee on **CONTRACTS**.....10:00 A.M.  
**Oversight** - HRA’s Back to Work Program  
 Hearing Room – 250 Broadway, 14<sup>th</sup> Floor ..... Bill de Blasio, Chairperson

★ Note Topic Addition  
 Committee on **YOUTH SERVICES** .....10:00 A.M.  
**Oversight** - Sexual Exploitation and Runaway and Homeless Youth  
 ★ **Proposed Res. No. 1227-A** - By Council Members Fidler, Mark-Viverito, Brewer, James, Sanders Jr., Weprin, White Jr. and Gerson - **Resolution** calling upon the United States Congress to amend the Federal Runaway and Homeless Youth Act and implement regulations to increase the maximum eligible age for services to 24 years old from under 22 years old and to recognize the unique needs of LGBTQ runaway and homeless youth; and calling upon the New York State Legislature to amend the State Runaway and Homeless Youth Act and implement regulations to increase the maximum eligible age for services to 24 years old from 21 years old, to recognize the unique needs of LGBTQ runaway and homeless youth, specifically by allowing, where appropriate, settings that are not gender segregated, to allow the maximum length of stay for youth in transitional independent living programs to be calculated independently of their 21<sup>st</sup> birthdays, to ease the 24-hour staffing requirement for residential programs, and to provide start-up grants for State certification applicants to use during the certification waiting period.  
 Council Chambers – City Hall ..... Lewis A. Fidler, Chairperson

★ Deferred  
 Committee on **HIGHER EDUCATION**.....1:00 P.M.  
 Agenda to be announced  
 Hearing Room – 250 Broadway, 14<sup>th</sup> Floor .....Charles Barron, Chairperson

Committee on **PARKS AND RECREATION**..... 1:00 P.M.  
**Oversight** - Status of Yankee Stadium Replacement Parks



COUNCIL MINUTES — STATED MEETING

April 22, 2009
CC153

Committee Room – City .....Helen Foster, Chairperson

★ Deferred

Committee on TECHNOLOGY IN GOVERNMENT ..... 1:00 P.M.

Agenda to be announced

Council Chambers – City Hall ..... Gale Brewer, Chairperson

★ Addition

Subcommittee on PUBLIC HOUSING ..... 1:00 P.M.

Oversight - Update on the Status of NYCHA's Tenant Participation Fund

Hearing Room – 250 Broadway, 14th Floor ..... Rosie Mendez, Chairperson

Thursday, April 30, 2009

★ Note Location Change

Subcommittee on ZONING & FRANCHISES ..... 9:30 A.M.

See Land Use Calendar Available Monday, April 27, 2009, in Room 5 City Hall

★ Hearing Room – 250 Broadway, 14th Floor ..... Tony Avella, Chairperson

Committee on PUBLIC SAFETY jointly with the

Committee on CIVIL RIGHTS ..... 10:00 A.M.

Oversight – Analysis of NYPD Stop and Frisk Encounters

Council Chambers – City Hall ..... Peter Vallone, Chairperson

..... Larry Seabrook, Chairperson

★ Note Location Change

Subcommittee on LANDMARKS, PUBLIC SITING &

MARITIME USES ..... 11:00 A.M.

See Land Use Calendar Available Monday, April 27, 2009, in Room 5 City Hall

★ Hearing Room – 250 Broadway, 14th Floor ..... Jessica Lappin, Chairperson

★ Note Location Change

Subcommittee on PLANNING, DISPOSITIONS &

CONCESSIONS ..... 1:00 P.M.

See Land Use Calendar Available Monday, April 27, 2009, in Room 5 City Hall

★ Hearing Room – 250 Broadway, 14th Floor ..... Daniel Garodnick, Chairperson

★ Deferred

Committee on EDUCATION ..... 1:00 P.M.

Agenda announced

Council Chambers – City Hall ..... Robert Jackson, Chairperson

★ Addition

Committee on TRANSPORTATION ..... 1:00 P.M.

Oversight - What is the impact of the new for-hire vehicle rules on the riders, drivers and industry?

Hearing Room – 250 Broadway, 16th Floor ..... John C. Liu, Chairperson

★ Addition

Committee on WOMEN'S ISSUES ..... 2:00 P.M.

Tour: Sanctuary for Families

Location: Manhattan Office

Details Attached ..... Darlene Mealy, Chairperson

Monday, May 4, 2009

Committee on VETERANS ..... 10:00 A.M.

Oversight - The Future of St. Albans Medical Center and Facilities

Hearing Room – 250 Broadway, 14th Floor ..... James Sanders, Chairperson

Committee on LAND USE ..... 10:00 A.M.

All items reported out of the subcommittees

AND SUCH OTHER BUSINESS AS MAY BE NECESSARY

Committee Room – City Hall ..... Melinda R. Katz, Chairperson

Committee on Sanitation and Solid Waste Management ..... 10:00 a.m.

Int 922 - By Council Members Fidler, De Blasio, Garodnick, Gerson, Lappin, Brewer, Gonzalez, Jackson, Koppell, Liu, Mark-Viverito, Nelson, Palma, Recchia Jr., Weprin and Gioia - A Local Law to amend the administrative code of the city of New York, in relation to the collection for safe handling of fluorescent light bulbs.

Council Chambers – City Hall ..... Simcha Felder, Chairperson

Committee on HEALTH ..... 1:00 P.M.

Proposed Int 859-A - By The Public Advocate (Ms. Gotbaum) and Council Members Brewer, James, Liu, Palma, Sanders Jr., Gerson, White Jr., Gioia, Arroyo and Martinez - A Local Law to amend the administrative code of the city of New York, in relation to the provision of language assistance services in pharmacies.

Hearing Room – 250 Broadway, 14th Floor ..... Joel Rivera, Chairperson

Committee on LOWER MANHATTAN REDEVELOPMENT jointly with the

Committee on CIVIL SERVICE AND LABOR ..... 1:00 P.M.

Res. No. 1924 - By The Speaker (Council Member Quinn) - Resolution calling upon the United States House of Representatives to pass and the United States Senate to introduce and pass the James Zadroga 9/11 Health and Compensation Act.

Council Chambers – City Hall ..... Alan Gerson, Chairperson

..... Miguel Martinez, Chairperson

Tuesday, May 5, 2009

Committee on CIVIL SERVICE AND LABOR ..... 10:00 A.M.

Agenda to be announced

Hearing Room – 250 Broadway, 16th Floor ..... Miguel Martinez, Chairperson

Committee on PARKS AND RECREATION ..... 10:00 A.M.

Int 916 - By Council Members Liu, Mark-Viverito, Comrie, Gerson, James, Koppell, Seabrook, Stewart and Nelson - A Local Law to amend the administrative code of the city of New York, in relation to regulating removal of trees from private property.

Int 927 - By Council Members Oddo, Brewer, Gerson, Jackson, James, Koppell and Mark-Viverito - A Local Law to amend the administrative code of the city of New York, in relation to the unlawful damage or removal of trees within a Special Natural Area District.

Hearing Room – 250 Broadway, 14th Floor ..... Helen Foster, Chairperson

Committee on IMMIGRATION ..... 1:00 P.M.

Agenda to be announced

Committee Room – City Hall ..... Kendall Stewart, Chairperson

Committee on GENERAL WELFARE ..... 1:00 A.M.

Oversight - DHS: Is there a Shadow Shelter System? Examining the Issue of Illegal Boarding Houses in New York City

Int 963 - By Council Member de Blasio - A Local Law to amend the administrative code of the city of New York, in relation to prohibiting referrals of homeless persons to dwellings that fail to meet occupancy standards.

Hearing Room – 250 Broadway, 16th Floor ..... Bill de Blasio, Chairperson

Wednesday, May 6, 2009

Stated Council Meeting ..... Ceremonial Tributes – 1:00 p.m.

..... Agenda – 1:30 p.m.

Miguel Martinez, Chairperson  
Committee on Civil Service and Labor

Christine C. Quinn  
Speaker of the Council

## MEMORANDUM

April 21, 2009

TO: ALL COUNCIL MEMBERS

RE: TOUR BY THE COMMITTEE ON WOMEN'S ISSUES

Please be advised that all Council Members are invited to attend a tour:

**Sanctuary for Families - Manhattan Office**

For further information, contact Rachel Cordero,  
Committee Counsel at 212-788-9073

The tour will be on **Thursday, April 30, 2009 beginning at 2:00 p.m.**

Council Members interested in attending should call Rachel Cordero at **212-788-9073**.

Darlene Mealy, Chairperson  
Committee on Women's Issues  
Council

Christine C. Quinn  
Speaker of the  
Council

## MEMORANDUM

April 23, 2009

TO: ALL COUNCIL MEMBERS

RE: TOUR BY THE COMMITTEE ON CIVIL SERVICE AND LABOR

Please be advised that all Council Members are invited to attend a tour:

**Services for Day Laborers:  
Site Visit of the Latin American Workers Project  
79-09 Roosevelt Avenue, 2<sup>nd</sup> Floor  
Jackson Heights, NY 11372**

The tour will be on **Tuesday, April 28, 2009 beginning at 10:00 a.m.** A van will be leaving City Hall at **9:00 a.m. sharp**.

Council Members interested in riding in the van should call Tracy Udell at **212-788-9070**.

## MEMORANDUM

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Darlene Mealy, Chairperson  
Committee on Women's Issues

Christine C. Quinn  
Speaker of the Council

Whereupon on motion of the Speaker (Council Member Quinn), the Clerk of the Council adjourned these proceedings to meet again for the Stated Meeting on Wednesday, May 6, 2009.

MICHAEL M. McSWEENEY, City Clerk  
Clerk of the Council

**Editor's Local Law Note:** Int No. 826-A, 931-A, and 955-A, all adopted by the Council at the April 2, 2009 Stated Council Meeting, were signed by the Mayor into law on April 2, 2009, respectively, as Local Law Nos. 24, 25, and 26 of 2009.











