

SUPPLEMENT TO

THE CITY RECORD

THE COUNCIL —STATED MEETING OF
TUESDAY, SEPTEMBER 24, 2013

THE COUNCIL

*Minutes of the Proceedings for the
STATED MEETING*

of
Tuesday, September 24, 2013, 3:00 p.m.

The President Pro Tempore (Council Member Comrie)
Acting Presiding Officer

Council Members

Christine C. Quinn, Speaker

Maria del Carmen Arroyo	David G. Greenfield	James S. Oddo
Charles Barron	Daniel J. Halloran III	Annabel Palma
Gale A. Brewer	Vincent M. Ignizio	Domenic M. Recchia, Jr.
Fernando Cabrera	Robert Jackson	Diana Reyna
Margaret S. Chin	Letitia James	Donovan Richards
Leroy G. Comrie, Jr.	Andy King	Ydanis A. Rodriguez
Elizabeth S. Crowley	Peter A. Koo	Deborah L. Rose
Inez E. Dickens	G. Oliver Koppell	Eric A. Ulrich
Erik Martin Dilan	Karen Koslowitz	James Vacca
Daniel Dromm	Bradford S. Lander	Peter F. Vallone, Jr.
Mathieu Eugene	Jessica S. Lappin	Albert Vann
Lewis A. Fidler	Stephen T. Levin	James G. Van Bramer
Helen D. Foster	Melissa Mark-Viverito	Mark S. Weprin
James F. Gennaro	Darlene Mealy	Jumaane D. Williams
Vincent J. Gentile	Rosie Mendez	Ruben Wills
Sara M. Gonzalez	Michael C. Nelson	

Excused: Council Members Ferreras, Garodnick, and Rivera.

The Deputy Majority Leader (Council Member Comrie) assumed the Chair as the President Pro Tempore and Acting Presiding Officer.

After being informed by the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the President Pro Tempore (Council Member Comrie).

There were 48 Council Members marked present at this Stated Meeting held in the Council Chambers of City Hall, New York, N.Y. 10007.

INVOCATION

The Invocation was delivered by Rev. Vernon Williams, Perfect Peace Ministries Youth Outreach, 63 West 124th Street, New York, NY 10027.

Giving honor unto God, the Mayor,
the members of the City Council
and to invited guests;

I count it an honor to be here today;
let us pray.
Behold how good and how pleasant it is
for brethren male and female
to join together in unity.
Lord grant this august body
your love and let it abound within them,
Lord allow this august body
to be filled with your holy spirit
that what they say and do
might be pleasing in your sight oh God.
God, continue to bless America
and those things that we
put our hand to to glorify your name.
May your grace and mercy be sufficient
for those who are called by your name.

Amen.

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

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

The Speaker (Council Member Quinn) offered thoughts and prayers to the victims of the September 16, 2013 shooting at the Washington Navy Yard where 12 individuals were killed in an act of gun violence. The Speaker (Council Member Quinn) and called for all to pledge to continue to work to end the spread of gun violence in our city, state, country, and world.

The Speaker (Council Member Quinn) also asked those assembled to remember the innocent victims of the Al-Qaeda linked terrorist attack launched on September 21, 2013 at a shopping mall in Nairobi, Kenya. The Speaker (Council Member Quinn) noted that these ongoing terrorist attacks remind us here in New York City to remain committed in the war against terrorism while also dedicating ourselves to make this city, state, country, and world a more united and peaceful place.

* * *

ADOPTION OF MINUTES

Council Member Foster moved that the Minutes of the Stated Meeting of August 22, 2013 be adopted as printed.

At this point, the President Pro Tempore (Council Member Comrie) congratulated Council Member Foster on having been nominated by the Governor to be the Commissioner of the New York State Human Rights Division. The President Pro Tempore (Council Member Comrie) also acknowledged the presence of a number of certified winners of the Democratic Party Councilmanic primaries including: Corey Johnson, Costa Constantinides, Rory Lancman, Carlos Menchaca, and Assembly Member Inez Barron.

During the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Quinn) acknowledged the presence of the family of outgoing Council Member Foster: husband Eric McKay, father and former Council Member Wendell Foster, mother Helen Foster, and sister Rebecca. The Speaker (Council Member Quinn) thanked Council Member Foster for her years of service to

the City and wished her well in her new position. At this point, the floor was yielded to Council Member Foster who spoke and thanked all assembled.

MESSAGES & PAPERS FROM THE MAYOR

M-1250

Communication from the Mayor – Submitting the Mayor’s Management Report, Fiscal 2013, dated September 2013, pursuant to Section 12 of the New York City Charter.

(For text, please refer to the City Hall Library at 31 Chambers Street, Suite 112, New York, N.Y. 10007)

Received, Ordered, Printed and Filed.

PETITIONS & COMMUNICATIONS

M-1251

Communication from Council Member Helen Diane Foster - Submitting her resignation as a member of the New York City Council effective September 24, 2013 at 11:59 p.m.

September 23, 2013

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

Dear Speaker Quinn:

I write to submit my resignation as the Councilmember of the 16th Council District of the New York City Council effective at 11:59 PM on September 24, 2013. My tenure as the Commissioner of the New York State Division of Human Rights is effective as of September 25, 2013.

Thanking you in advance for your and the Council's concern, friendship and support over the years.

Sincerely,

Helen Diane Foster

Received, Ordered, Printed & Filed.

LAND USE CALL UPS

M 1252

By the Chair of the Land Use Committee Council Member Comrie:

Pursuant to Rule 11.20(c) of the Council Rules and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Review Procedure Application nos. C 130317 ZSR, C 130318 ZSR, C130319 PPR and C130320 PPR shall be subject to Council review. These items are related to Application nos. N 130316 ZRR and C 130315 ZMR which is subject to Council review pursuant to Section 197-d of the New York City Charter.

Coupled on Call – Up Vote.

M 1253

By the Chair of the Land Use Committee Council Member Comrie:

Pursuant to Rule 11.20(c) of the Council Rules and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Review Procedure Application nos. C 130229 MMR, C 130289 PSR, C 130290 PQR and C 130288 PQR shall be subject to Council review. These items are related to Application no. C 130279 ZMR which is subject to Council review pursuant to Section 197-d of the New York City Charter.

Coupled on Call – Up Vote.

M 1254

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20b of the Council and §20-226 or §20-225 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 522 Hudson Street, Community Board No. 2, Application no. 20145048 TCM, shall be subject to review by the Council.

Coupled on Call – Up Vote.

M 1255

By Council Member Reyna:

Pursuant to Rule 11.20(b) of the Council Rules and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Review Procedure Application no. C 130162 POK shall be subject to Council review.

Coupled on Call – Up Vote.

M 1256

By Council Member Reyna:

Pursuant to Rule 11.20(b) of the Council Rules and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Review Procedure Application no. C 130126 POK shall be subject to Council review.

Coupled on Call – Up Vote.

LAND USE CALL UP VOTE

The President Pro Tempore (Council Member Comrie) 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, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Fidler, Foster, Gennaro, Gentile, Gonzalez, Greenfield, Halloran, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Palma, Recchia, Reyna, Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, and the Speaker (Council Member Quinn) – **48**.

At this point, the President Pro Tempore (Council Member Comrie) declared the aforementioned items **adopted** and referred these items to the Committee on Land Use and to the appropriate Land Use subcommittee.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Civil Rights

Report for Int. No. 974-A

Report of the Committee on Civil Rights 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 prohibiting discrimination in employment based on pregnancy, childbirth, or a related medical condition.

The Committee on Civil Rights, to which the annexed amended proposed local law was referred on November 27, 2012 (Minutes, page 4375), respectfully

REPORTS:

I. Introduction

On Monday, September 23, 2013, the Committee on Civil Rights, chaired by Council Member Deborah Rose, will vote on Proposed Introductory Bill Number 974-A (“Proposed Int. No. 974-A”), a Local Law to amend the administrative code

of the city of New York, in relation to prohibiting discrimination in employment based on pregnancy, childbirth, or a related medical condition. The Committee previously held a hearing on Proposed Introductory Bill Number 974-A, a Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination in employment based on pregnancy, childbirth, or a related condition, on June 25, 2013.

II. Background

A. Federal Law

In 1978, the United States Congress passed the Pregnancy Discrimination Act (“PDA”), which amended Title VII of the Civil Rights Act of 1964 to prohibit discrimination against pregnant women in the workplace.¹ Under the PDA, employers with 15 or more employees² are prohibited from discriminating against persons on the basis of pregnancy, childbirth, or related medical conditions.³ Such discrimination is deemed unlawful sex- or gender-based discrimination under Title VII.⁴ In addition to protections against discrimination on the basis of pregnancy, childbirth, or a related condition, many pregnant women seek accommodations in the workplace. The PDA does not explicitly speak to the provision of such accommodations, however. Accordingly, some have tried to use the Americans with Disabilities Act (“ADA”) to require employers to provide such accommodations,⁵ but such attempts have largely been unsuccessful because the ADA generally does not apply to pregnant women unless they have a pregnancy related disability.⁶ Pregnancy and conditions resulting from pregnancy are generally not considered to be a disability under the ADA and determining whether employers are required to provide a reasonable accommodation to pregnant workers is decided on a case by case basis.⁷

B. State and Local Law

Pregnancy based discrimination is considered to be sex- or gender-based discrimination and is therefore unlawful under both New York State and City Law. Although there is no explicit requirement for employers to provide a reasonable accommodation to pregnant workers under State law, employers with four or more employees are explicitly prohibited from forcing a pregnant employee “to take a leave of absence, unless the employee is prevented by such pregnancy from performing the activities involved in the job or occupation in a reasonable manner.”⁸ In New York City, the current Commission on Human Rights (“Commission”) interprets the City’s Human Rights Law as requiring employers to make reasonable accommodations for their disabled employees, including those who are pregnant.⁹

Since 2002, 154 pregnancy discrimination cases have been filed with the Commission.¹⁰ The Commission has obtained approximately \$500,000 in settlements and \$12,000 in fines for pregnancy discrimination claims since 2002.¹¹ Despite existing protections, troubling reports of pregnancy discrimination in the workplace endure.

According to the National Partnership for Women and Families (“NPWF”), pregnancy-related discrimination charges made to the United States Equal Employment Opportunity Commission have increased 35 percent over the past decade, and nearly one-fifth of all discrimination charges made by women have been related to their pregnancy.¹² The prevalence of pregnancy discrimination is particularly troubling in light of the facts that, according to NPWF, women make up approximately 47 percent of the workforce,¹³ and, according to the Center for American Progress, three-quarters of women entering the workforce will become pregnant at least once in their professional lives.¹⁴ According to A Better Balance, an advocacy organization for working families, the lack of language requiring reasonable accommodations for pregnant workers if they so request in the current law could result in termination or suspension of employment for a woman in New York if her otherwise healthy pregnancy requires a modest accommodation, such as frequent

for the Lower Ma_____

¹ U.S. Equal Employment Opportunity Commission, *The Pregnancy Discrimination Act of 1978* (approved Oct. 31, 1978), <http://www.eeoc.gov/laws/statutes/pregnancy.cfm> (last visited June 24, 2013); U.S. Equal Employment Opportunity Commission, *Facts About Pregnancy Discrimination* (Sept. 8, 2008), <http://www.eeoc.gov/facts/fs-preg.html> (last visited June 24, 2013).

² 42 U.S.C. §2000e(b).

³ 42 U.S.C. §2000e(k).

⁴ *Id.*

⁵ See National Advocates for Pregnant Women, *Guide to Pregnancy Discrimination in Employment*, 2-3, <http://advocatesforpregnantwomen.org/06CFinalDraft.pdf> (last visited June 14, 2013).

⁶ A person is deemed disabled if he or she has a physical or mental impairment that substantially limits one or more of the major life activities. *Id.* at 3; 42 U.S.C. §12102(1).

⁷ National Advocates for Pregnant Women, *supra* note 5, at 3.

⁸ N.Y. Exec. Law. §296(1)(g).

⁹ Patricia L. Gatling, Commissioner, New York City Commission on Human Rights, *Letter to the Editor: Pregnancy Discrimination*, N.Y. Times, Feb. 13, 2013, http://www.nytimes.com/2012/02/14/opinion/pregnancy-discrimination.html?_r=1& (last visited June 6, 2013).

¹⁰ Information on file with Committee Staff.

¹¹ Information on file with Committee Staff.

¹² *Unlawful Discrimination Against Pregnant Workers and Workers with Caregiving Responsibilities*, U.S. Equal Employment Opportunity Commission (Feb. 15, 2012) (written testimony of Judith L. Lichtman, Senior Advisor, National Partnership for Women and Families), <http://www1.eeoc.gov/eeoc/meetings/2-15-12/lichtman.cfm?renderforprint=1> (last visited June 24, 2013).

¹³ *Id.*

¹⁴ Melissa Alpert and Alexandra Cawthorne, Center for American Progress, *Labor Pains: Improving Employment and Income Security for Pregnant Women and New Mothers*, 2, http://www.americanprogress.org/issues/2009/08/pdf/labor_pains.pdf (last visited June 24, 2013).

bathroom breaks, but does not rise to the level of a disability.¹⁵ Moreover, stress resulting from a failure to provide a reasonable accommodation can have an adverse effect on a woman’s maternal health.¹⁶ Demographic trends also highlight the critical need for increased protections for pregnant women. According to the NPWF, women are “primary or co-breadwinners in nearly two-thirds of families.”¹⁷ The need for pregnancy protections is particularly high in New York State, where unwed mothers accounted for 34.8 percent of births in the state in 2011.¹⁸ In New York City, single mothers total nearly 282,000 and account for 34.2 percent of all households with children and over 82 percent of single-parent households.¹⁹

Although laws exist to prevent discrimination against pregnant women in the workplace, it appears that women may not always be able to obtain workplace accommodations that make it possible to maintain a healthy pregnancy and continue to satisfactorily perform their jobs. In order to address this problem, Introductory Bill Number 974 was introduced into the City Council on November 27, 2012. The Committee on Civil Rights held a hearing on Proposed Int. No. 974-A on June 25, 2013.

III. Amendments to Proposed Int. No. 974-A

Following the June 25, 2013 hearing on Proposed Int. No. 974-A, several changes were made to address enforcement concerns raised by the Commission and to ensure that the requirements for employers set forth under this bill are consistent with other requirements for employers under the City’s Human Rights Law. Changes to the bill are as follows:

- While expressing support for the bill, the Commissioner of the Commission on Human Rights, Patricia L. Gatling, expressed concern about the posting requirements set forth in the bill heard by the Committee on June 25, 2013.²⁰ In her written testimony, she stated that “there is no enforcement mechanism” for the posting requirements.²¹ In order to address this concern, changes were made to require the Commission to provide notice to the public in a manner that is consistent with other provisions of the City’s Human Rights Law.
- A technical change was made to make it clarify that only those employers with four or more employees are covered under this bill. This is consistent with other antidiscrimination provisions found in the Human Rights Law.
- Additional technical changes were made to the discussion of reasonable accommodations to make it clear that such accommodations are to be provided so as to allow employees to meet their job requirements and so long as the employer knows or should have known about the employee’s pregnancy, childbirth, or related medical condition. This is consistent with other parts of the Human Rights Law where employers are required to provide reasonable accommodations.

IV. Analysis of Proposed Int. No. 974-A

Proposed Int. No. 974-A would amend the City’s Human Rights Law to prohibit employers from discriminating against workers who are pregnant or have a medical condition related to pregnancy or childbirth and require employers to provide a reasonable accommodation to such workers. A reasonable accommodation is any accommodation that can be made that does not cause an employer an undue hardship.²² This standard is consistent with the rest of the Human Rights Law regarding reasonable accommodations in employment. This bill would also require the Commission to (i) create a written notice regarding employees’ rights related to pregnancy for employers to provide to employees, and (ii) educate the public on their rights and obligations with regard to pregnant workers’ right to be free from discrimination in relation to pregnancy, childbirth, or a related medical condition.

V. Effective Date

This local law would take effect 120 days after its enactment into law.

for the Lower Ma_____

¹⁵ A Better Balance: Fact Sheet: The Pregnant Workers Fairness Act in New York City (Oct. 2012), http://www.abetterbalance.org/web/images/stories/City_PWFA_Fact_Sheet.pdf (last visited June 24, 2013).

¹⁶ *Id.*

¹⁷ Judith L. Lichtman, *supra* note 15.

¹⁸ Rachel M. Shattuck and Rose M. Krelder, U.S. Census Bureau, *American Community Survey Reports: Social and Economic Characteristics of Currently Unmarried Women With a Recent Birth: 2011* (issued May 2013), 7, <http://www.census.gov/prod/2013pubs/acs-21.pdf> (last visited June 24, 2013).

¹⁹ http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_11_1YR_S1101&prodType=table (ACS Survey 2011)

²⁰ Written Testimony of Patricia L. Gatling, New York City Commission on Human Rights, before the Committee on Civil Rights, 2 (June 25, 2013) (on file with Committee Staff).

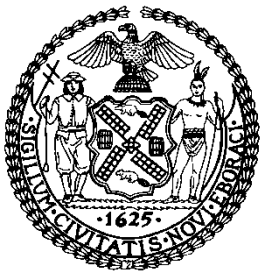
²¹ *Id.*

²² The factors to be considered when determining whether an accommodation would cause an employer undue hardship include, but are not limited to, “(a) the nature and cost of the accommodation; (b) the overall financial resources of the facility or the facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility; (c) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees, the number, type, and location of its facilities; and (d) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.” Admin. Code §8-102(18).

VI. Penalties

Pursuant to Proposed Int. No. 974-A, an individual who believes that he or she has been unlawfully discriminated against on the basis of pregnancy, childbirth, or a related medical condition may bring an action in court for damages, injunctive relief and other appropriate remedies,²³ or make a complaint to the Commission on Human Rights.²⁴ Upon a finding that an employer has engaged in an unlawful discriminatory practice, the Commission may issue an order to the employer to “cease and desist” the unlawful discriminatory practice.²⁵ In addition, the Commission could require the employer to hire a prospective employee; award back pay and front pay; or pay compensatory damages, among other things.²⁶ Failure to comply with such an order may result in a civil penalty of no more than \$50,000 and an additional civil penalty of no more than \$100 per day.²⁷ Should the Commission find that an employer engaged in an unlawful discriminatory practice, it may impose a civil penalty of \$125,000.²⁸ If the unlawful discriminatory practice resulted from the employer’s “willful, wanton or malicious act,” the Commission may impose a civil penalty of not more than \$250,000.²⁹ Should a person willfully violate an order of the Commission, he or she may be guilty of a misdemeanor that is punishable by imprisonment for not more than one year, or by a fine of not more than \$10,000, or by both.³⁰

(The following is the text of the Fiscal Impact Statement for Int. No. 974-A:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: No: 974-A
COMMITTEE: Civil Rights

TITLE: To amend the administrative code of the city of New York, in relation to prohibiting discrimination in employment based on pregnancy, childbirth, or related medical condition.

SPONSOR(S): By Council Members Vacca, Lander, Palma, Rose, Lappin, Arroyo, Brewer, Chin, Eugene, Ferreras, Gentile, Jackson, James, Koo, Koppell, Koslowitz, Mendez, Reyna, Rivera, Williams, Rodriguez, Mark-Viverito, Crowley, Gonzalez, Levin, Van Bramer and Ulrich

SUMMARY OF LEGISLATION: Proposed Int. No. 974-A would amend the City’s Human Rights Law to make it an unlawful discriminatory practice for employers to refuse to provide reasonable accommodations to the needs of an employee for her pregnancy, childbirth, or related medical condition. As it relates to reasonable accommodations the legislation would apply only to employers with at least four employees. Proposed Int. No. 974-A defines the term “reasonable accommodation” to mean such accommodation that can be made that shall not cause undue hardship in the conduct of the covered entity’s business. According to the bill’s legislative intent, a reasonable accommodation may include bathroom breaks, leave for a period of disability arising from childbirth, breaks to facilitate increased water intake, periodic rest for those who stand for long periods of time, and assistance with manual labor, among other things.

Proposed Int. No. 974-A, would also require the Commission on Human Rights to (i) create a written notice regarding employees’ rights related to pregnancy for employers to provide to employees, and (ii) educate the public on their rights and obligations with regard to pregnant workers’ right to be free from discrimination in relation to pregnancy, childbirth, or a related medical condition.

EFFECTIVE DATE: This local law shall take effect 120 days after it shall have been enacted into law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: FISCAL 2015

FISCAL IMPACT STATEMENT:

for the Lower Ma_____

²³ Admin. Code §8-502.
²⁴ Admin. Code §8-109.
²⁵ Admin. Code §8-120(a).
²⁶ *Id.*
²⁷ Admin. Code §8-124.
²⁸ Admin. Code §8-126(a).
²⁹ *Id.*
³⁰ Admin. Code §8-129.

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY14
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

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

IMPACT ON EXPENDITURES: The Finance Division expects that this legislation would have no impact on expenditures since existing resources would be used to comply with this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: NA

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Eisha Wright, Unit Head

ESTIMATED REVIEWED BY: Regina Poreda Ryan, Deputy Director
 Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: On November 27, 2012, Proposed Intro. 974 was introduced by the Council and referred to the Committee on Civil Rights. On June 25, 2013 the Committee held a hearing regarding this legislation, which was then laid over and subsequently amended. The Committee will consider an amended version of the legislation, Proposed Intro. 974-A, on September 23rd, 2013. Following a successful Committee vote, on September 24th, 2013, the Full Council will vote on Proposed Int. 974-A.

DATE SUBMITTED TO COUNCIL: November 27, 2012

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 974-A:)

Int. No. 974-A

By Council Members Vacca, Lander, Palma, Rose, Lappin, Arroyo, Brewer, Chin, Eugene, Ferreras, Gentile, Jackson, James, Koo, Koppell, Koslowitz, Mendez, Reyna, Rivera, Williams, Rodriguez, Mark-Viverito, Crowley, Gonzalez, Levin, Van Bramer, Weprin, Garodnick, Barron, Gennaro, Greenfield, Mealy and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination in employment based on pregnancy, childbirth, or a related medical condition.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The Council finds that pregnant women are vulnerable to discrimination in the workplace in New York City. For example, there are reports that women who request an accommodation that will allow them to maintain a healthy pregnancy, or who need a reasonable accommodation while recovering from childbirth, are being removed from their positions, placed on unpaid leave, or fired. It is the intent of the Council to combat this form of discrimination by requiring employers to provide reasonable accommodations to pregnant women and those who suffer medical conditions related to pregnancy and childbirth. Such a reasonable accommodation may include bathroom breaks, leave for a period of disability arising from childbirth, breaks to facilitate increased water intake, periodic rest for those who stand for long periods of time, and assistance with manual labor, among other things. It is not the intent of the Council to require such accommodations if their provision would cause an undue hardship in the conduct of an employer’s business.

§2. Subdivision 5 of section 8-102 of chapter one of title eight of the administrative code of the city of New York, as amended by local law number 14 for the year 2013, is amended to read as follows:

5. For purposes of subdivisions one, two, three, *twenty-two*, subparagraph one of paragraph a of subdivision twenty-one, and paragraph e of subdivision twenty-one of section 8-107 of this chapter, the term “employer” does not include any employer with fewer than four persons in his or her employ. For purposes of this subdivision, natural persons employed as independent contractors to carry out work in furtherance of an employer’s business enterprise who are not themselves employers shall be

counted as persons in the employ of such employer.

§3. Subdivision 18 of section 8-102 of chapter one of title eight of the administrative code of the city of New York, as amended by local law number 54 for the year 2011, is amended to read as follows:

18. The term “reasonable accommodation” means such accommodation that can be made that shall not cause undue hardship in the conduct of the covered entity’s business. The covered entity shall have the burden of proving undue hardship. In making a determination of undue hardship with respect to claims filed under subdivisions one, [or] two, *or twenty-two* of section 8-107, or section 8-107.1 of this chapter, the factors which may be considered include but shall not be limited to:

(a) the nature and cost of the accommodation;

(b) the overall financial resources of the facility or the facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(c) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees, the number, type, and location of its facilities; and

(d) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

In making a determination of undue hardship with respect to claims for reasonable accommodation to an employee’s or prospective employee’s religious observance filed under subdivision three of section 8-107 of this chapter, the definition of “undue hardship” set forth in paragraph b of such subdivision shall apply.

§4. Section 8-107 of chapter one of title eight of the administrative code of the city of New York is amended by adding a new subdivision 22 to read as follows:

(22) *Employment; Pregnancy, childbirth, or a related medical condition.* (a) *It shall be an unlawful discriminatory practice for an employer to refuse to provide a reasonable accommodation, as defined in subdivision eighteen of section 8-102 of this chapter, to the needs of an employee for her pregnancy, childbirth, or related medical condition that will allow the employee to perform the essential requisites of the job, provided that such employee’s pregnancy, childbirth, or related medical condition is known or should have been known by the employer. In any case pursuant to this subdivision where the need for reasonable accommodation is placed in issue, it shall be an affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with reasonable accommodation, satisfy the essential requisites of the job.*

(b) *Notice of rights.* (i) *An employer shall provide written notice in a form and manner to be determined by the commission of the right to be free from discrimination in relation to pregnancy, childbirth, and related medical conditions pursuant to this subdivision to: (1) new employees at the commencement of employment; and (2) existing employees within one hundred twenty days after the effective date of the local law that added this subdivision. Such notice may also be conspicuously posted at an employer’s place of business in an area accessible to employees.* (ii) *The commission shall develop courses of instruction and conduct ongoing public education efforts as necessary to inform employers, employees, employment agencies, and job applicants about their rights and responsibilities under this subdivision.*

(c) *This subdivision shall not be construed to affect any other provision of law relating to sex discrimination or pregnancy, or in any way to diminish the coverage of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth under any other provision of this section.*

§5. This local law shall take effect 120 days after it shall have become a law, except that the commissioner shall, prior to such effective date, take such actions as are necessary to implement the provisions of this law.

DEBORAH L. ROSE Chairperson; MARGARET S. CHIN, ANDY KING;
Committee on Civil Rights, September 23, 2013.

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 Environmental Protection

Report for Int. No. 1105-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, in relation to planning for resiliency to climate change as a responsibility of the office of long-term planning and sustainability.

The Committee on Environmental Protection, to which the annexed amended proposed local law was referred on June 26, 2013 (Minutes, page 2669), respectfully

REPORTS:

1. INTRODUCTION

On Monday, September 23, 2013, the Committee on Environmental Protection shall consider on Proposed Int. No. 1105-A, a local law to amend the New York city charter, in relation to planning for resiliency to climate change as a responsibility of the office of long-term planning and sustainability. The proposed bill was previously heard on June 27, 2013.

2. BACKGROUND

a. Superstorm Sandy

Superstorm Sandy hit New York City with intensity unparalleled by any coastal storm in recent history. The storm began on October 22, 2012, as a tropical depression cyclone in the southern Caribbean with wind speeds below 39 mph.¹ The depression strengthened and became Tropical Storm Sandy, with maximum winds of about 40 mph.² By October 24th, Sandy was a Category 1 hurricane and crossed Jamaica with reported winds of 80 mph. On October 26th, Sandy struck Cuba with winds of about 110 mph, just below the status of a major Category 3 hurricane and on October 27th, the storm turned to the northeast, off the coast of Florida, and left in its path an estimated death toll in the Caribbean of 70 or more. After briefly weakening to a tropical depression, Sandy re-intensified into a Category 1 hurricane and meteorologists warned that the storm would likely morph into a powerful, hybrid super-storm as it moved further northward towards a high-pressure cold front that was expected to force Sandy to start turning to the northwest toward Baltimore, Washington, Philadelphia and New York.³ The full moon was expected to make Sandy’s storm surge – initially expected to be 11 to 12 feet in some places – even a little higher as it made landfall.⁴

On October 29th Sandy made the anticipated sharp turn toward the northwest on a path to the coast of New Jersey.⁵ The storm began interacting with other weather systems and gained energy and by approximately 8 p.m. Sandy’s center had come ashore near Atlantic City, New Jersey. The storm’s unusual path from the southeast made its storm surge much worse for New Jersey and New York.⁶ In fact, the National Weather Service’s New York office reported that the nearly 14 foot surge was a new record for a storm surge in the harbor. The surge topped the seawall at The Battery in Lower Manhattan and flooded parts of the City’s subway system. The surge also flooded the Hugh Carey Tunnel that links Lower Manhattan to Brooklyn and did unspeakable damage throughout Staten Island, Coney Island, and the Rockaways.⁷ As a result, forty-three New Yorkers lost their lives – half of whom were on Staten Island – and tens of thousands were injured, or temporarily or permanently displaced by the storm’s impact.⁸

b. Special Initiative for Rebuilding and Resiliency

i. History

In December 2012, Mayor Bloomberg created the Special Initiative for Rebuilding and Resiliency (SIRR) to address how to create a more resilient New York City in the wake of Hurricane Sandy, with a long-term focus on preparing for and protecting against the impacts of climate change.⁹ The final SIRR report (report) was released on June 11, 2013.¹⁰ The report describes what occurred during the super storm Sandy and gives proposed solutions to remedy issues related to the city’s infrastructure and resilience against future perils. The report covers a broad range of subcategories from insurance policies to environmental protection and remediation. In addition, the report highlights communities that suffered especially severe damage during the storm and describes the precautions that need to be taken to prepare for future climate change and risks. The report estimates that cost for the recovery will be approximately \$19.5 billion.

c. Building Resiliency Task Force

In the aftermath of Hurricane Sandy, the Department of Buildings (DOB) Housing Recovery Operations team surveyed one-to-two family homes and multi-family residential buildings and found that upwards of 30,000 housing units located in 9,000 buildings suffered some damage as a result of Sandy. Out of the 9,000 damaged buildings, over 1,000 buildings were initially deemed structurally unsafe to occupy by (DOB).¹¹ 400-500 of these unsafe buildings were either swept off their foundations by Sandy or subsequently demolished due to safety concerns. The day after Hurricane Sandy devastated New York City, nearly 2 million residents had lost power. Service was not restored to some New Yorkers for several days and for others it took weeks. Long-term utility outages in some areas of the City made some buildings uninhabitable when residents were unable to get fresh water, flush toilets, or navigate dark hallways and stairways safely. One week after Hurricane Sandy hit, New York Mayor Michael Bloomberg announced that the City would likely have to find housing for 30,000- 40,000 people who were displaced from their pre-Sandy homes.¹²

To address the ways that the City’s existing building stock could be made more resilient and survivable, in November, 2012, Mayor Bloomberg and City Council Speaker Christine Quinn announced the formation of the Building Resiliency Task Force (Task Force). The Task Force, overseen by the Urban Green Council, is a

collection of over 200 experts from a variety of fields, such as mechanical engineering, real estate development, and sustainability consulting, that were charged with making recommendations to improve building resiliency and maximize preparedness for future weather emergencies, including coastal flooding, heat waves, high winds, and extended utility outages.¹³ After considering dozens of specific recommendations, on June 13, 2013, the Task Force issued a report containing 33 actionable proposals for improving building resiliency in New York City for both new and existing buildings.¹⁴

3. PROPOSED INT. NO. 1105-A

The above-referenced planning processes represent important first steps in preparing for future events such as Sandy, but the wide variety of potential natural disasters, and the possible far-ranging impacts from them, ranging from potential loss of life, destruction of homes and businesses, damage to the City's infrastructure, and the like, points to the need for a more permanent effort. In addition, the impacts from a changing climate will produce ongoing, often escalating problems that will require constant and ongoing vigilance to overcome. Therefore, the proposed legislation would require the City to take action to create a permanent and ongoing planning and preparation effort to make the City more resilient against future natural disasters.

Proposed Int. No. 1105-A

Section one of the proposed bill amends section 20 of the New York City Charter to add various duties (described below) for the Office of Long-term Planning and Sustainability (OLTPS) regarding planning to make the city more resilient to natural disasters. Paragraph one of subdivision (b) of the proposed bill would add resiliency of critical infrastructure, the built environment, coastal protection and communities to the list of subjects OLTPS must develop policies, programs, and actions to address.

A new paragraph four of subdivision (b) of the proposed bill would add a requirement that a deputy director shall be appointed to OLTPS to coordinate matters related resilience planning, programs, and actions. Such deputy director shall report to the director of OLTPS.

Paragraph two of subdivision (e) would require the city's sustainability plan to be updated with plans, programs, and actions related to making the city more resilient by no later than 2015, and every four years thereafter.

Subdivision (g) of the proposed bill would require that experts in fields related to resiliency, such as architects and engineers, be added to the Sustainability Advisory Board that advises OLTPS on sustainability planning.

Section two of the proposed bill states that the law would be effective immediately after passage.

Amendments to Int. No. 1105

Technical changes were made to the bill to reorganize text.

¹ See Posting of Willie Drye to National Geographic Newswatch, *A Timeline of Hurricane Sandy's Path of Destruction*, Nov. 2, 2012, available at: <http://newswatch.nationalgeographic.com/2012/11/02/a-timeline-of-hurricane-sandys-path-of-destruction/>; see also Hurricane Sandy Advisory Archive, NOAA National Hurricane Center, available at: <http://www.nhc.noaa.gov/archive/2012/SANDY.shtml>.

² Id.

³ Hurricane Sandy Advisory Archive, NOAA National Hurricane Center, available at: <http://www.nhc.noaa.gov/archive/2012/SANDY.shtml>.

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Hurricane Sandy After Action Plan. May 2013. Report and Recommendations to Mayor Michael R. Bloomberg.

⁹ New York City. *Special Initiative for Rebuilding and Resiliency*. New York, New York: 2013. http://nytelecom.vo.llnwd.net/o15/agencies/sirr/SIRR_spreads_Lo_Res.pdf

¹⁰ Id.

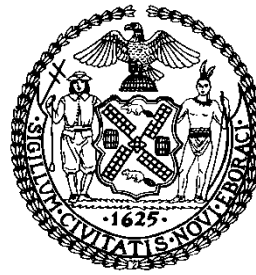
¹¹ Testimony provided to the Committee on Housing and Buildings on 12/13/12. Hearing on Int. 977-A. available at: <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1254493&GUID=A7EDAB2B-E0D8-4BFD-B82D-62FBE2DB9F20&Options=Advanced&Search=>

¹² Julie Shapiro and Jill Colvin. *Up to 40,000 New Yorkers Left Homeless after Hurricane Sandy*, Mayor says. DNAINFO. available at: <http://www.dnainfo.com/new-york/2012/11/04/new-york-city/up-40000-new-yorkers-left-homeless-after-hurricane-sandy-mayor-says>

¹³ Green Building Council New York Chapter. *Building Resiliency Task Force Report*. New York, New York: 2013. <http://www.urbangreencouncil.org/BuildingResiliency>

¹⁴ Id.

(The following is the text of the Fiscal Impact Statement for Int. No. 1105-A:)



THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION

PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY
DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1105-A

COMMITTEES:
Environmental
Protection

TITLE: A Local Law to amend the New York City Charter, in relation to planning for resiliency to climate change as a responsibility of the Office of Long-Term Planning and Sustainability.

SPONSOR(S): Council Members Gennaro, Brewer, Comrie, Koo, Koppell, Richards, Vallone, Chin, and Barron (in conjunction with the Mayor)

SUMMARY OF LEGISLATION: The proposed legislation establishes resiliency planning as initiated by the report released in June 2013, "A Stronger, More Resilient New York"—as a responsibility of the Mayor's Office of Long-Term Planning and Sustainability. To ensure accountability and measure progress, the legislation incorporates resiliency measures and indicators pertaining to critical infrastructure, the built environment, coastal protection and communities into forthcoming progress reports and updates of the long-term sustainability plan.

Additionally, the legislation creates a Director of Resiliency to operate within the Office of Long-Term Planning and Sustainability to oversee implementation of resiliency measures under the Director of the Office. Finally, additional seats will be added to the sustainability advisory board that represent engineering, coastal protection and critical infrastructure.

EFFECTIVE DATE: Immediately after its enactment into law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2014

FISCAL IMPACT STATEMENT:

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY15
Revenues	\$0	\$0	\$0
Expenditures	\$177,600	\$236,800	\$236,800
Net	\$0	\$0	\$0

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

IMPACT ON EXPENDITURES: The salary for the Deputy Director would be \$160,000 with allied costs estimated at 48% the total impact of this position would be \$236,800. The position would be filled almost immediately which would come to approximately \$120,000 for salary in Fiscal 2014, and \$177,600 with allied costs.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: City's General Fund

SOURCE OF INFORMATION: Mayor's Office
New York City Council Finance
Division

ESTIMATE PREPARED BY: Amy Stokes, Legislative Financial Analyst
Kate Seely-Kirk, Senior Legislative
Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: Introduced as Intro.1105 on June 26, 2013 and referred to the Committee on Environmental Protection, the Committee on Housing and Buildings, the Committee on Parks and Recreation, the Committee on Waterfronts and the Committee on Transportation. A hearing was held on June 27, 2013 and the bill was laid over by all Committees. Intro. 1105 has been amended,

and the amended version, Proposed Int. 1105-A, will be considered by the Committee on Environmental Protection on September 23, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1105-A on September 24, 2013.

ATTACHMENT to the Committee Report: Mayoral Memorandum-in-Support

MEMORANDUM IN SUPPORT

TITLE: A LOCAL LAW to amend the administrative code of the city of New York, in relation to establishing resiliency planning as a responsibility of the Office of Long-Term Planning and Sustainability.

SUMMARY OF PROVISIONS: The proposed legislation establishes resiliency planning—as initiated by the report released in June 2013, “A Stronger, More Resilient New York”—as a responsibility of the Office of Long-Term Planning and Sustainability. To ensure accountability and to measure progress, the legislation incorporates resiliency measures and indicators pertaining to critical infrastructure, the built environment, coastal protection and communities into forthcoming progress reports and updates of the long-term sustainability plan.

Additionally, the proposed legislation creates a Director of Resiliency to operate within the Office of Long-term Planning and Sustainability to oversee implementation of resiliency measures under the Director of the Office. Finally, seats that represent engineering, coastal protection and critical infrastructure will be added to the sustainability advisory board.

REASONS FOR SUPPORT:

Recent events, including Superstorm Sandy of 2012, demonstrated that the City has significant vulnerabilities as a coastal city. Sandy devastated both coastal and back-bay communities, damaged city infrastructure, and severely disrupted services such as healthcare, utilities and fuel supply. Furthermore, this risk will only increase due to the effects of climate change that include rising sea levels and more frequent and intense heavy downpours.

While mitigating greenhouse gas emissions and adapting to climate change have been fundamental objectives of the Office of Long-term Planning and Sustainability since the release of PlaNYC in 2007, the City is now prepared to take additional steps to protect itself from the threats brought about by climate change. These steps were outlined in “A Stronger, More Resilient New York”, which was developed in close partnership with the Office of Long-term Planning and Sustainability as well as members of the Sustainability Advisory Board and the New York City Panel on Climate Change.

By incorporating resiliency into the responsibilities of the Office of Long-term Planning and Sustainability, the City will build upon the foundation established in PlaNYC to ensure that resiliency planning is informed by clear metrics and transparent reporting; rigorous policy analysis; the best available science; and extensive stakeholder involvement.

Accordingly, the Mayor urges the earliest possible favorable consideration of this legislation.

Respectfully submitted,

Patrick A. Wehle

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1105-A:)

Int. No. 1105-A

By Council Members Gennaro, Brewer, Comrie, Koo, Koppell, Richards, Vallone, Chin, Barron, Lappin, Eugene, Greenfield, Van Bramer and Williams (in conjunction with the Mayor).

A Local Law to amend the New York city charter, in relation to planning for resiliency to climate change as a responsibility of the office of long-term planning and sustainability.

Be it enacted by the Council as follows:

Section 1. Section 20 of the New York city charter, as amended by local law number 5 for the year 2010, is amended to read as follows:

§ 20. Office of long-term planning and sustainability. a. The mayor shall establish an office of long-term planning and sustainability. Such office may, but need not, be established in the executive office of the mayor and may be established as a separate office or within any other office of the mayor or within any department the head of which is appointed by the mayor. Such office shall be headed by a director who shall be appointed by the mayor or by the head of such department. For the purposes of this section only, "director" shall mean the director of long-term

planning and sustainability.

b. Powers and duties. The director shall have the power and the duty to:

1. develop and coordinate the implementation of policies, programs and actions to meet the long-term needs of the city, with respect to its infrastructure, environment and overall sustainability citywide, including but not limited to the categories of housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change; *the resiliency of critical infrastructure, the built environment, coastal protection and communities*; and regarding city agencies, businesses, institutions and the public;

2. develop measurable sustainability indicators, which shall be used to assess the city's progress in achieving sustainability citywide; [and]

3. take actions to increase public awareness and education regarding sustainability and sustainable practices; *and*

4. *appoint a deputy director who shall be responsible for matters relating to resiliency of critical infrastructure, the built environment, coastal protection and communities and who shall report to the director.*

c. Sustainability indicators. No later than December thirty-first, two thousand eight and annually thereafter, the director shall identify a set of indicators to assess and track the overall sustainability of the city with respect to the categories established pursuant to paragraph one of subdivision b of this section and any additional categories established by the director, and prepare and make public a report on the city's performance with respect to those indicators. Such report may be prepared and presented in conjunction with the mayor's management report required pursuant to section twelve of this chapter. The report shall include, at a minimum:

1. the city's progress in achieving sustainability citywide, which shall be based in part on the sustainability indicators developed pursuant to paragraph two of subdivision b of this section; and

2. any new or revised indicators that the director has identified and used or will identify and use to assess the city's progress in achieving sustainability citywide, including, where an indicator has been or will be revised or deleted, the reason for such revision or deletion.

d. Population projections. No later than April twenty-second, two thousand ten, and every four years thereafter, the department of city planning shall release or approve and make public a population projection for the city that covers a period of at least twenty-one years, with intermediate projections at no less than ten year intervals. Where feasible, such projections shall include geographic and demographic indicators.

e. Long-term sustainability plan. 1. The director shall develop and coordinate the implementation of a comprehensive, long-term sustainability plan for the city. Such plan shall include, at a minimum:

i. an identification and analysis of long-term planning and sustainability issues associated with, but not limited to, housing, open space, brownfields, transportation, water quality and infrastructure, air quality, energy, and climate change; and

ii. goals associated with each category established pursuant to paragraph one of subdivision b of this section and any additional categories established by the director, and a list of policies, programs and actions that the city will seek to implement or undertake to achieve each goal by no later than April twenty-second, two thousand thirty.

2. No later than April twenty-second, two thousand eleven, and no later than every four years thereafter, the director shall develop and submit to the mayor and the speaker of the city council an updated long-term sustainability plan, setting forth goals associated with each category established pursuant to paragraph one of subdivision b of this section and any additional categories established by the director, and a list of policies, programs and actions that the city will seek to implement or undertake to achieve each goal by no later than twenty years from the date each such updated long-term sustainability plan is submitted. *No later than two thousand fifteen, and no later than every four years thereafter, the plan shall also include a list of policies, programs and actions that the city will seek to implement or undertake to achieve each goal relating to the resiliency of critical infrastructure, the built environment, coastal protection and communities.* Such updated plan shall take into account the population projections required pursuant to subdivision d of this section. An updated plan shall include, for each four-year period beginning on the date an updated plan is submitted to the mayor and the speaker of the city council, implementation milestones for each policy, program and action contained in such plan. An updated plan shall report on the status of the milestones contained in the immediately preceding updated plan. Where any categories, goals, policies, programs or actions have been revised in, added to or deleted from an updated plan, or where any milestone has been revised in or deleted from an updated plan, the plan shall include the reason for such addition, revision or deletion. The director shall seek public input regarding an updated plan and its implementation before developing and submitting such plan pursuant to this paragraph. The director shall coordinate the implementation of an updated long-term sustainability plan.

f. Review and reporting. 1. No later than April twenty-second, two thousand nine, and no later than every April twenty-second thereafter, the director shall prepare and submit to the mayor and the speaker of the city council a report on the city's long-term planning and sustainability efforts. In those years when an updated long-term sustainability plan is submitted pursuant to paragraph two of subdivision e of this section, such report may be incorporated into the updated long-term sustainability plan. The report shall include, at a minimum:

i. the city's progress made to implement or undertake policies, programs and actions included in the sustainability plan or updated sustainability plan required by subdivision e of this section, since the submission of the most recent plan or updated plan or report required by this paragraph; and

ii. any revisions to policies, programs or actions in the previous long-term

sustainability plan, including the reason for such revision.

g. There shall be a sustainability advisory board whose members, including, at a minimum, representatives from environmental, environmental justice, planning, *architecture, engineering, coastal protection, construction, critical infrastructure*, labor, business and academic sectors, shall be appointed by the mayor. The advisory board shall also include the speaker of the city council or a designee and the chairperson of the council committee on environmental protection or a designee. The advisory board shall meet, at a minimum, twice per year and shall provide advice and recommendations to the director regarding the provisions of this section.

h. The director shall post on the city's website, a copy of each sustainability plan required by subdivision e of this section, and all reports prepared pursuant to this section, within ten days of their completion.

i. Interagency green team. 1. There is hereby established within the office an interagency green team under the management of the director or the director's designee to facilitate the use of innovative technologies, design and construction techniques, materials or products that may have significant environmental and sustainability benefits and to assist innovative projects in addressing city agency regulatory requirements.

2. The interagency green team shall include as members the commissioners of buildings, environmental protection, transportation, design and construction, health and mental hygiene and the chairperson of the city planning commission, or their respective designees, and such other members as the director shall designate. The director shall also designate members from among the fire commissioner and the commissioners of parks and recreation, consumer affairs, emergency management, housing preservation and development, sanitation, and the chairperson of the landmarks preservation commission, or their respective designees, with respect to specific matters being considered by the interagency green team where the director determines it appropriate to do so.

§ 2. This local law shall take effect immediately.

JAMES F. GENNARO, Chairperson; PETER F. VALLONE, Jr., ELIZABETH S. CROWLEY, STEPHEN T. LEVIN; Committee on Environmental Protection, September 23, 2013.

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 had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for Res. No. 1937

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 Expense Budget.

The Committee on Finance, to which the annexed resolution was referred on September 24, 2013, respectfully

REPORTS:

Introduction. The Council of the City of New York (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 27, 2013, the Council adopted the expense budget for fiscal year 2014 with various programs and initiatives (the "Fiscal 2014 Expense Budget"). On June 28, 2012, the Council adopted the expense budget for fiscal year 2013 with various programs and initiatives (the "Fiscal 2013 Expense Budget"). On June 29, 2010, the Council adopted the expense budget for fiscal year 2011 with various programs and initiatives (the "Fiscal 2011 Expense Budget").

Analysis. This Resolution, dated September 24, 2013, approves new designations and changes in the designation of certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2014 and Fiscal 2013 Expense Budgets, and approves the new designations and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in such budgets, and amends the description for the Description/Scope of Services of certain organizations receiving local, aging and youth discretionary funding in accordance with the Fiscal 2014 and Fiscal 2013 Expense Budgets.

In an effort to continue to make the budget process more transparent, the Council is providing a list setting forth new designations and/or changes in the designation of certain organizations receiving local, aging, and youth discretionary funding, as well as new designations and/or changes in the designation of certain

organizations to receive funding pursuant to certain initiatives in the Fiscal 2014, Fiscal 2013 and Fiscal 2011 Expense Budgets.

This resolution sets forth new designations and specific changes in the designation of certain organizations receiving local initiative funding pursuant to the Fiscal 2014 Expense Budget, as described in Chart 1; sets forth new designations and changes in the designation of aging discretionary funding pursuant to the Fiscal 2014 Expense Budget, as described in Chart 2; sets forth new designations and changes in the designation of youth discretionary funding pursuant to the Fiscal 2014 Expense Budget, as described in Chart 3; sets forth the new designations and changes in the designation of certain organizations that will receive funding pursuant to certain initiatives in the Fiscal 2014 Expense Budget, as described in Charts 4-9; sets forth new designations and specific changes in the designation of certain organizations receiving local initiative funding pursuant to the Fiscal 2013 Expense Budget, as described in Chart 10; sets forth the new designations and changes in the designation of certain organizations that will receive funding pursuant to certain initiatives in the Fiscal 2011 Expense Budget, as described in Chart 11; sets forth the new designations and changes in the designation of certain organizations that will receive funding pursuant to certain initiatives in the Fiscal 2013 Expense Budget, as described in Charts 12-13; amends the description for the Description/Scope of Services for certain organizations receiving local, aging, youth, and initiative discretionary funding pursuant to the Fiscal 2014 Expense Budget as described in chart 14; and amends the description for the Description/Scope of Services for certain organizations receiving local, aging, youth, and initiative discretionary funding pursuant to the Fiscal 2013 Expense Budget as described in chart 15.

The charts, attached to the Resolution, contain the following information: name of the council member(s) designating the organization to receive funding or name of the initiative, as set forth in Adjustments Summary/Schedule C/ Fiscal 2014 Expense Budget, dated June 27, 2013, Adjustments Summary/Schedule C/ Fiscal 2013 Expense Budget, dated June 28, 2012, and Adjustments Summary/Schedule C/ Fiscal 2011 Expense Budget, dated June 29, 2011.

Specifically, Chart 1 sets forth the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2014 Expense Budget.

Chart 2 sets forth the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2014 Expense Budget.

Chart 3 sets forth the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2014 Expense Budget.

Chart 4 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to the OST Initiative in accordance with the Fiscal 2014 Expense Budget.

Chart 5 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Sexual Assault Initiative in accordance with the Fiscal 2014 Expense Budget.

Chart 6 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2014 Expense Budget.

Chart 7 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Discretionary Child Care Initiative in accordance with the Fiscal 2014 Expense Budget.

Chart 8 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural After School Adventure Initiative in accordance with the Fiscal 2014 Expense Budget.

Chart 9 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Immigrant Opportunities Initiative in accordance with the Fiscal 2014 Expense Budget.

Chart 10 sets forth the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2013 Expense Budget.

Chart 11 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Food Pantries Initiative in accordance with the Fiscal 2011 Expense Budget.

Chart 12 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 13 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Anti-Gun Violence Initiative in accordance with the Fiscal 2013 Expense Budget.

Chart 14 amends the description for the Description/Scope of Services for certain organizations receiving local, aging, youth and initiative discretionary funding in accordance with the Fiscal 2014 Expense Budget.

Chart 15 amends the description for the Description/Scope of Services for certain organizations receiving local, aging, youth and initiative discretionary funding in accordance with the Fiscal 2013 Expense Budget.

It is to be noted that organizations identified in the attached Charts with an asterisk (*) have not yet completed or began the prequalification process conducted by the Mayor's Office of Contract Services (for organizations to receive more than \$10,000) by the Council (for organizations to receive \$10,000 or less total), or other government agency. Organizations identified without an asterisk have completed the appropriate prequalification review.

It should be further noted that funding for organizations in the attached Charts with a double asterisk (**) will not take effect until the passage of a budget modification.

Description of Above-captioned Resolution. In the above-captioned Resolution, the Council would approve the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2014 and 2013 Expense Budgets. Such Resolution would take effect as of the date of adoption.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1937:)

Res. No. 1937

Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.

By Council Members Recchia and Koo.

Whereas, On June 27, 2013 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2014 with various programs and initiatives (the "Fiscal 2014 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2014 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 new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2014 Expense Budget by approving new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding; and

Whereas, On June 28, 2012 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2013 with various programs and initiatives (the "Fiscal 2013 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 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 new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 Expense Budget by approving new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding; and

Whereas, On June 29, 2010 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2011 with various programs and initiatives (the "Fiscal 2011 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 Expense Budget by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and therefore be it

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 1; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 2; 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 in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 3; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the OST Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 4; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Sexual Assault Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 5; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 6; 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 Discretionary Child Care Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 7; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Cultural After School Adventure Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 8; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Immigrant Opportunities Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 9; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 10; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Food Pantries Initiative in accordance with the Fiscal 2011 Expense Budget, as set forth in Chart 11 and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 12; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Anti-Gun Violence Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 13; and be it further

Resolved, That the City Council approves the new Description/Scope of Services for certain organizations receiving local, aging, youth, and initiative discretionary funding in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 14; and be it further

Resolved, That the City Council approves the new Description/Scope of Services for certain organizations receiving local, aging, youth, and initiative discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 15.

DOMENIC M. RECCHIA, Jr., Chairperson; DIANA REYNA, GALE A. BREWER, LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, September 24, 2013.

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 had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for L.U. No. 920

Report of the Committee on Finance in favor of approving Mascot Flats, Block 375, Lot 30, Manhattan, Community District No. 3, Council District No. 2

The Committee on Finance, to which the annexed resolution was referred on September 24, 2013, respectfully

REPORTS:

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

September 24, 2013

TO: Hon. Domenic M. Recchia, Jr.
Chair, Finance Committee

Members of the Finance Committee

FROM: Amy Stokes, Finance Division

RE: Finance Committee Agenda of September 24, 2013 - Resolution approving tax exemptions for one Preconsidered Land Use Items (Council District 2)

Mascot Flats (Block 375, Lot 30) in Manhattan consists of one building with 19 units of rental housing for low income families. The Mascot Flats Housing Development Fund Corporation ("HDFC") acquired the property in 1993 and received tax benefits pursuant to Real Property Tax Law Section 489 ("J-51 Benefits"). Due to the phase out of J-51 Benefits, the HDFC has not been able to pay real property taxes since 2006. In order to facilitate the project, the HDFC has requested a retroactive exemption from real property taxation pursuant to Private Housing Finance Law Section 577 for the period commencing July 1, 2006 until June 30, 2013. Thereafter, the HDFC has requested a prospective exemption from real property taxation pursuant to Private Housing Finance Law Section 577 for a total real property tax exemption period of forty (40) years from July 1, 2006. The HDFC will enter into a regulatory agreement with HPD establishing certain controls upon the operation of the Exemption Area.

This project has the approval of Councilmember Mendez.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1938:)

Res. No. 1938

Resolution approving an exemption from real property taxes for property located at (Block 375, Lot 30) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 920).

By Council Member Recchia.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated August 26, 2013 that the Council take the following action regarding a housing project to be located at (Block 375, Lot 30) Manhattan ("Exemption Area"):

Approve an exemption of the Project from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "Tax Exemption");

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

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

RESOLVED:

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
 - (a) "Effective Date" shall mean July 1, 2006.
 - (b) "Exemption" shall mean the exemption from real property taxation provided hereunder.
 - (c) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, and identified as Block 375, Lot 30 on the Tax Map of the City of New York.
 - (d) "Expiration Date" shall mean the earlier to occur of (i) June 30, 2046, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - (e) "HDFC" shall mean The Mascot Flats Housing Development Fund Corporation.
 - (f) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - (g) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the HDFC establishing certain controls upon the operation of the Exemption Area on and after the date such Regulatory Agreement is executed.
 - (h) "Residential Property" shall mean all of the Exemption Area, including both the land and improvements (excluding, those portions, if any, devoted to business or commercial use).
2. All of the value of the Exemption Area shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating on June 30, 2013.
3. All of the value of the Residential Property shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing on July 1, 2013 and terminating on the Expiration Date, provided, however, that the HDFC shall make such annual real property 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 \$8,710 times the number of residential units included in the Exemption Area and increasing such product by three and seven tenths percent (3.7%) on July 1, 2014 and on July 1 of each successive year.
4. Notwithstanding the foregoing, the total annual real property tax payments by the HDFC shall not at any time exceed the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by an existing or future local, state, or federal law, rule or regulation.
5. Notwithstanding any provision hereof to the contrary:
 - a. The Exemption shall terminate if HPD determines that (i) the housing project is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the owner of the Exemption Area has failed to execute the Regulatory Agreement within ninety (90) days after the date of approval of the Exemption, (iii) the housing project is not being operated in accordance with the requirements of the Regulatory Agreement, (iv) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (v) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the HDFC and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.
 - b. The Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.

- c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid by or on behalf of the HDFC or any other owner of the Exemption Area prior to the Effective Date.

6. In consideration of the Exemption, the owner of the Exemption Area shall (i) execute and record the Regulatory Agreement, and (ii) for so long as the Exemption shall remain in effect, waive the benefits, if any, of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

DOMENIC M. RECCHIA, Jr., Chairperson; DIANA REYNA, GALE A. BREWER, LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, September 24, 2013.

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 Housing and Buildings

Report for Int. No. 1086-A

Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the New York City plumbing code, in relation to requiring that toilets and faucets be capable of operating without an external supply of electrical power.

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 24, 2013 (Minutes, page 2072), respectfully

REPORTS:

Introduction

On September 24, 2013, the Committee on Housing and Buildings, chaired by Council Member Erik Martin Dilan, will conduct a hearing on Proposed Int. 1086-A, Proposed Int. 1090-A, Proposed Int. 1095-A, and Proposed Int. No. 1098-A.

On June 27, 2013, the Committee held a hearing on these bills and received testimony from the New York City Office of Long Term Planning and Sustainability; the Urban Green Council; the Building Resiliency Task Force; the International Code Council; Gilsanz, Murray, Steficek; the American Institute of Architects; Riverkeeper; the National Resources Defense Council; and the Plumbing Foundation. Other stakeholders also subsequently submitted feedback on the above-referenced items.

Background

On October 29, 2012, Hurricane Sandy struck New York City causing record storm surges and flooding throughout Lower Manhattan, Brooklyn, Staten Island, Coney Island, and the Rockaways.¹ Forty-three New Yorkers lost their lives; many more were injured; and tens of thousands were temporarily or permanently displaced.² In addition, Sandy damaged approximately 88,700 structures throughout the city resulting in private losses of approximately \$8.6 billion.³

In November 2012, Mayor Bloomberg and Council Speaker Christine Quinn announced the formation of the Building Resiliency Task Force (“BRTF”).⁴ BRTF, overseen by the Urban Green Council, is a collection of over 200 experts from a variety of fields, including mechanical engineering, real estate development, and sustainability consulting.⁵ BRTF was charged with making recommendations to improve building resiliency and maximize preparedness for future weather emergencies, including coastal flooding, heat waves, high winds, and extended utility outages.⁶ On June 13, 2013, BRTF issued a report containing 33 actionable proposals for improving building resiliency in the city for both new and existing buildings.⁷ Those BRTF proposals formed the basis for the bills now under consideration.

Proposed Int. No. 1086-A

Proposed Int. No. 1086-A would require that faucets and water closets be capable of operating without an external supply of electrical power.

Bill section one adds a new section 424.1.3 to the Plumbing Code that would require bathrooms or toilet rooms containing “automatic lavatory faucets” – i.e. electrically-powered lavatory faucets – to require at least one such lavatory faucet to be capable of normal operation for at least two weeks without electrical power through either manual operation or a built-in battery back-up. Where a bathroom or toilet room contains an automatic lavatory faucet in a required accessible lavatory,

the faucet for the required accessible lavatory shall be capable of normal operation without electrical power as described above. This section also provides that only one bathroom or toilet room per dwelling unit is required to comply with this section.

Bill section two adds a new section 425.1.2 to the Plumbing Code that would require bathrooms or toilet rooms containing “automatic flushing devices” – i.e. electrically-powered water closets – to require at least one such water closet to be capable of normal operation without electrical power for at least two weeks without electrical power through either manual operation or a built-in battery back-up. Where a bathroom or toilet room contains an automatic flushing device in a required accessible water closet, the required accessible water closet shall be capable of normal operation without electrical power as described above. This section also provides that only one bathroom or toilet room per dwelling unit is required to comply with this section.

Bill section three contains the enactment clause and provides that this local law would take effect on the same date that Int. 1056, which will revise the Administrative Code, Plumbing Code, Building Code, Mechanical Code, and Fuel Gas Code in order to bring those codes up to date with 2009 international codes, takes effect.

Amendments to Proposed Int. 1086-A

Technical changes were made throughout the bill for the purposes of clarity and to revise organization of the text.

Bill section one was amended to provide that, where a bathroom or toilet room contains an automatic lavatory faucet in a required accessible lavatory, the faucet for the required accessible lavatory shall be capable of normal operation without electrical power as described in section 424.1.3 of the Building Code.

Bill section two was amended to provide that, where a bathroom or toilet room contains an automatic flushing device in a required accessible water closet, the required accessible water closet shall be capable of normal operation without electrical power as described in section 425.1.2 of the Building Code.

Bill section three was amended to provide that this local law would take effect on the same date that Int. 1056 takes effect, rather than on January 1, 2014.

Proposed Int. No. 1090-A

Proposed Int. No. 1090-A would require the Office of Long Term Planning and Sustainability (“OLTPS”), in consultation with the Department of Buildings (“DOB”), to conduct a study of the effects of wind on certain buildings.

Bill section one would add a new section 3-124 to the Administrative Code to require a report on such study to be submitted to the Mayor and the Speaker of the Council assessing the effects of wind on existing buildings, including buildings that are supported by columns and buildings that are under construction in the city. Such report must be provided no later than two years from the effective of this local law.

The report would be required to include (1) an analysis of the types of existing buildings that are at risk for falling debris based on the age, construction classification, construction methods and materials, height and occupancy use of such buildings; (2) an analysis of the effects of wind on buildings that are raised, lifted, elevated or supported by columns or that are moved in order to comply with Appendix G of the Building Code or to address flood hazard concerns; (3) an analysis of the effects of wind on buildings that are under construction including the storage of construction materials at such sites and buildings with incomplete façade assemblies; (4) an analysis of forecasts related to potential changes in the frequency, intensity, and path of future storm events along with consideration of whether climate change will impact wind speeds; and (6) an examination of the benefits of installing and maintaining weather stations across the city, including on high-rise buildings, to better understand localized wind patterns.

The report would also be required to include recommendations on items 1-5 as well as recommendations on whether the applicable wind loads under the city’s Building Codes should be revised; whether standard wind plans for sites in various stages of construction are needed; how equipment and temporary structures such as cranes, derricks, scaffolds, concrete formwork and sidewalk bridges should be secured in light of wind effects; whether changes to the Building Code or DOB rules related to façade work filing and inspection exemptions or safety inspection requirements are necessary and if existing buildings should be made to comply with current wind load requirements.

Amendments to Proposed Int. No. 1090-A

Technical changes were made throughout the bill for the purposes of clarity and to revise organization of the text.

Bill section one has been amended to allow OLTPS and DOB to conduct the required study and report no later than two years from the effective date of this local law, rather than one year after the effective date.

Proposed Int. No. 1095-A

Proposed Int. No. 1095-A would require DOB to publish a manual explaining flood construction and protection requirements applicable in the city.

Bill section one would add a new section 28-103.23 to the Administrative Code. The new section would require DOB to create and make publicly available a manual explaining the flood construction and protection requirements and standards

applicable in the city. The manual would be updated as needed and would be made available in plain English, Spanish, and such other languages as the DOB Commissioner determines. The manual would be required to contain, at a minimum, an explanation of (1) the materials requirements applicable for construction in flood-prone areas; (2) the manner in which specific utilities and equipment must be protected from flooding; and (3) flood construction and protection requirements for existing structures in flood-prone areas.

Bill section two contains the enactment clause and provides that this local law would take effect immediately after enactment.

Amendments to Proposed Int. No. 1095-A

Technical changes were made throughout the bill for the purposes of clarity and to revise organization of the text.

Proposed Int. No. 1098-A

Proposed Int. No. 1098-A would require that buildings in flood-prone areas be equipped with devices to prevent the intrusion of sewage from the public sewer system.

Bill section one would amend section 715.1 of the Plumbing Code to specify that buildings in areas of special flood hazard shall be deemed subject to overflow as the result of backwater from the public sewer system and to require that such buildings be equipped with backwater valves in accordance with Appendix G of the Building Code. Backwater valves are devices that prevent public sewer system sewage from traveling into buildings.

Bill section two would add a new section 1101.9.1 to the Plumbing Code to require that backwater valves be installed in storm drainage systems serving buildings located in areas of special flood hazard.

Bill section three would amend section G501.1 of the Building Code by adding modifications to sections 7.3.3 and 7.3.4 of incorporated reference standard ASCE 24-05, "Flood Resistant Design and Construction." The modification to section 7.3.3 would require that plumbing systems be provided with backwater valves in the building drain at its point of exit from the building and downstream from the building trap. The modification to section 7.3.4 would require that sanitary systems be provided with backwater valves at the point of exit from the building and downstream of the building trap.

Bill section four contains the enactment clause and provides that this local law would take effect ninety days after enactment.

Amendments to Proposed Int. No. 1098-A

Technical changes were made throughout the bill for the purposes of clarity and to revise organization of the text.

Update

On Tuesday, September 24, 2013, the Committee adopted this legislation. Accordingly, the Committee recommends its adoption.

¹ Hurricane Sandy Advisory Archive, National Oceanic and Atmospheric Administration Hurricane Center, available online at <http://www.nhc.noaa.gov/archive/2012/SANDY.shtml>.

² Hurricane Sandy After Action Plan (May 2013), available online at http://www.nyc.gov/html/recovery/downloads/pdf/sandy_aar_5.2.13.pdf.

³ Special Initiative for Rebuilding and Resiliency report, available online at: http://nytelecom.vo.llnwd.net/o15/agencies/sirr/SIRR_spreads_Lo_Res.pdf.

⁴ See Building Resiliency Task Force report, available online at <http://www.urbangreencouncil.org/BuildingResiliency>.

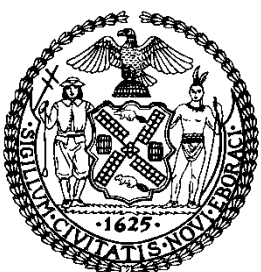
⁵ Id.

⁶ Id.

⁷ Id.

(For text of Int Nos. 1090-A, 1095-A, and 1098-A and their Fiscal Impact Statements, please see the Reports of the Committee on Housing and Buildings for Int Nos. 1090-A, 1095-A, and 1098-A, respectively, printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1086-A:



THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION

PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY
DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1086-A

COMMITTEE:
Housing and
Buildings

TITLE: To amend the New York city plumbing code, in relation to requiring that toilets and faucets be capable of operating without an external supply of electrical power.
SPONSOR(S): Fidler, Chin, Comrie, Dickens, Gonzalez, Koo, Lander, Mark-Viverito, Mendez, Rose and Van Bramer

SUMMARY OF LEGISLATION: This legislation would require that at least one lavatory faucet and water closet in dwelling unit be capable of operating without an external supply of electrical power for at least two weeks, either through manual operation or built-in battery back-up.

EFFECTIVE DATE: This local law would take effect on the same date as a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, takes effect.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2014

FISCAL IMPACT STATEMENT:

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY14
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: There would be no revenues generated by this legislation.

IMPACT ON EXPENDITURES: There would be no expenditures generated by this legislation. The building owner will bear the costs of these toilets and faucets.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

Department of Buildings

ESTIMATE PREPARED BY: Ralph P. Hernandez, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director
Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: Intro 1086 was introduced by Council and referred to the Housing and Buildings Committee on June 24, 2013. On June 27, 2013, a joint hearing was held on Intro 1086 by the Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts Committees, and the bill was laid over. An amendment was made and Proposed Intro 1086-A will be voted by the Housing and Buildings Committee on September 24, 2013. Upon a successful vote, Proposed Intro 1086-A will be submitted to and voted on by the Full Council on September 24, 2013.

DATE SUBMITTED TO COUNCIL: June 24, 2013

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1086-A:)

Int. No. 1086-A

By Council Members Fidler, Chin, Comrie, Dickens, Gonzalez, Koo, Lander, Mark-Viverito, Mendez, Rose, Van Bramer, Rodriguez, Brewer, Jackson, Williams, Barron, Gennaro and Mealy.

A Local Law to amend the New York city plumbing code, in relation to requiring that toilets and faucets be capable of operating without an external supply of electrical power.

Be it enacted by the Council as follows:

Section 1. Section PC 424 of the New York city plumbing code is amended to add a new Section PC 424.1.3 to read as follows:

424.1.3 Lavatory operation without external electrical power. *Where automatic lavatory faucets connected to an external supply of electrical power are provided in a bathroom or toilet room, at least one lavatory faucet in such bathroom or toilet room shall be capable of normal operation in the absence of an external supply of electrical power for a period of at least two weeks, either through manual operation or built-in battery back-up. Where such automatic lavatory faucets are located in a bathroom or toilet room with a required accessible lavatory, such operational lavatory faucet shall be at such required accessible lavatory.*

Exception: *Section 424.1.3 shall not apply to more than one bathroom or toilet room in a dwelling unit.*

§2. Section PC 425 of the New York city plumbing code is amended to add a new Section PC 425.1.2 to read as follows:

425.1.2 Water closet flushing without external electrical power. *Where automatic flushing devices connected to an external supply of electrical power are provided for water closets in a bathroom or toilet room, the flushing device of at least one water closet in such bathroom or toilet room shall be capable of normal operation in the absence of an external supply of electrical power for a period of at least two weeks, either through manual operation or built-in battery back-up. Where such automatic flushing devices are located in a bathroom or toilet room with a required accessible water closet, such operational flushing device shall be at such required accessible water closet.*

Exception: *Section 425.1.2 shall not apply to more than one bathroom or toilet room in a dwelling unit.*

§3. This local law shall take effect on the same date as a local law of the city of New York for the year 2013 amending the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, relating to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, as proposed in Intro. 1056, takes effect.

ERIK MARTIN DILAN Chairperson; GALE A. BREWER, LEWIS A. FIDLER, JAMES F. GENNARO, ROBERT JACKSON, MELISSA MARK-VIVERITO, ROSIE MENDEZ, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, September 24, 2013.

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 Int. No. 1090-A

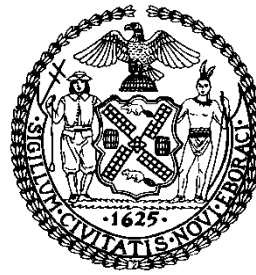
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law amend the administrative code of the city of New York, in relation to studying the effects of wind on certain buildings.

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 24, 2013 (Minutes, page 2078), respectfully

REPORTS:

(For text of report, please see the Report for the Committee on Housing and Buildings for Int No. 1086-A printed in these Minutes).

The following is the text of the Fiscal Impact Statement for Int. No. 1090-A:



THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION

PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY
DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1090-A

COMMITTEE:
Housing and
Buildings

TITLE: To amend the administrative code of the city of New York, in relation to studying the effects of wind on certain buildings.

SPONSOR(S): Council Members Ignizio, Chin, Comrie, Fidler, James, Koo, Lander, Mendez, Richards and Rose

SUMMARY OF LEGISLATION: Proposed Intro 1090-A would require the Mayor's Office of Long Term Planning and Stability (OLTPS), along with the Department of Buildings (DOB) to undertake a study and submit a report to the Mayor and Council Speaker on the effects of wind on existing buildings, including existing buildings that are raised, and buildings that are under construction in New York City. The report must be provided within two years of the effective date and must include the following:

1. An analysis to determine the types of existing buildings that are at risk of causing falling debris, based on the age, construction classification, construction methods and materials, height, and occupancy use of such buildings;
2. An analysis of the effects of wind on existing buildings that are raised, lifted, elevated or moved in order to comply with Appendix G of the New York city building code or to address flood hazard concerns;
3. An analysis of the effects of wind on buildings that are under construction, including the effects of wind on buildings with incomplete façade assemblies, temporary installations used in construction, and construction materials that are stored on construction sites;
4. An analysis of forecasts related to potential changes in the frequency, intensity, and path of future storm events along with consideration of whether climate change may impact wind speeds; and
5. An examination of the benefits of installing and maintaining weather stations across the city, including on high-rise buildings, to better understand localized wind patterns.

The report should also provide recommendations on whether the applicable wind loads under the city's building code should be revised; whether standard wind plans for sites in various stages of construction are needed, including plans regarding equipment and temporary structures such as cranes, derricks, scaffolds, concrete formwork and sidewalk bridges; how equipment and temporary structures such as cranes, derricks, scaffolds, concrete formwork and sidewalk bridges should be designed and secured in light of wind effects; whether changes to the building code or DOB's rules related to façade work filing and inspection exemptions or safety inspection requirements are necessary and what wind load requirements should be applied to existing buildings.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: 2014

FISCAL IMPACT STATEMENT:

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY14
Revenues	\$0	\$0	\$0
Expenditures	\$1.5 million	\$0	\$1.5 million
Net	\$1.5 million	\$0	\$1.5 million

IMPACT ON REVENUES: There would be no revenues generated by this legislation.

IMPACT ON EXPENDITURES: Looking at Calgary and Seattle who conducted extensive wind studies and scaling up the costs to make it comparable to New York City, OLTPS is estimating a cost of \$1-1.5 million for this study. The funding will pay for the RFP process and the hiring of consultants. OLTPS is expecting federal funding to defray the cost to the City, but has not yet been made aware of the award amount. When federal funding is secured, OLTPS will reduce the City's commitment accordingly.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General funds

SOURCE OF INFORMATION: Mayor's Office of Long Term Planning and Stability (OLTPS)
Department of Buildings (DOB)
City Council Finance Division

ESTIMATE PREPARED BY: Ralph P. Hernandez, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director
Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: Intro 1090 was introduced by Council and referred to the Housing and Buildings Committee on June 24, 2013. On June 27, 2013, a joint hearing was held on Intro 1090 by the Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts Committees, and the bill was laid over. An amendment was made and Proposed Intro 1090-A will be voted by the Housing and Buildings Committee on September 24, 2013. Upon a successful vote, Proposed Intro 1090-A will be submitted to and voted on by the Full Council on September 24, 2013.

DATE SUBMITTED TO COUNCIL: June 24, 2013

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1090-A:)

Int. No. 1090-A

By Council Members Ignizio, Chin, Comrie, Fidler, James, Koo, Lander, Mendez, Richards, Rose, Brewer, Jackson, Mark-Viverito, Williams, Barron, Eugene, Gennaro, Greenfield, Mealy and Van Bramer.

A Local Law to amend the administrative code of the city of New York, in relation to studying the effects of wind on certain buildings.

Be it enacted by the Council as follows:

Section 1. Subchapter 2 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-124, to read as follows:

§3-124. Study and report on the effects of wind on certain buildings. a. The office of long-term planning and sustainability in consultation with the department of buildings shall undertake a study and submit a report to the mayor and the speaker of the city council, on the effects of wind on existing buildings, including existing buildings that are raised, and buildings that are under construction in the city of New York. Such report and accompanying recommendations shall be provided no later than two years from the effective date of the local law that added this section and shall include the following:

1. An analysis to determine the types of existing buildings that are at risk of causing falling debris, based on the age, construction classification, construction methods and materials, height, and occupancy use of such buildings;

2. An analysis of the effects of wind on existing buildings that are raised, lifted, elevated or moved in order to comply with Appendix G of the New York city building code or to address flood hazard concerns;

3. An analysis of the effects of wind on buildings that are under construction, including the effects of wind on buildings with incomplete façade assemblies, temporary installations used in construction, and construction materials that are stored on construction sites;

4. An analysis of forecasts related to potential changes in the frequency, intensity, and path of future storm events along with consideration of whether climate change may impact wind speeds; and

5. An examination of the benefits of installing and maintaining weather stations across the city, including on high-rise buildings, to better understand localized wind patterns.

b. The report shall include recommendations on paragraphs one through five of subdivision a of this section as well as recommendations on whether the applicable wind loads under the city's building code should be revised; whether standard wind plans for sites in various stages of construction are needed, including plans regarding equipment and temporary structures such as cranes, derricks, scaffolds, concrete formwork and sidewalk bridges; how equipment and temporary

structures such as cranes, derricks, scaffolds, concrete formwork and sidewalk bridges should be designed and secured in light of wind effects; whether changes to the building code or department of buildings rules related to façade work filing and inspection exemptions or safety inspection requirements are necessary and what wind load requirements should be applied to existing buildings.

§ 2. This local law shall take effect immediately.

ERIK MARTIN DILAN Chairperson; GALE A. BREWER, LEWIS A. FIDLER, JAMES F. GENNARO, ROBERT JACKSON, MELISSA MARK-VIVERITO, ROSIE MENDEZ, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, September 24, 2013.

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 Int. No. 1095-A

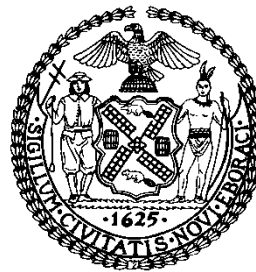
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to creating a manual on flood construction and protection standards.

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 24, 2013 (Minutes, page 2089), respectfully

REPORTS:

(For text of report, please see the Report for the Committee on Housing and Buildings for Int No. 1086-A printed in these Minutes).

The following is the text of the Fiscal Impact Statement for Int. No. 1095-A:



THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION

PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY
DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1095-A

COMMITTEE:
Housing and
Buildings

TITLE: To amend the administrative code of the city of New York, in relation to creating a manual on flood construction and protection standards.

SPONSOR(S): Council Members Nelson, Chin, Comrie, James, Mendez, Richards and Rose

SUMMARY OF LEGISLATION: The bill would require the Department of Buildings ("DOB") to create a manual explaining in detail the various construction and protection requirements applicable to new construction and the alteration of existing structures in flood-prone areas of the city. The manual will be made available on DOB's website in plain English and Spanish (and in other languages as determined by the DOB Commissioner). The manual will, at a minimum, explain (1) the materials that can be used to build in flood-prone areas; (2) the manner in which specific utilities and equipment must be protected from flooding; and (3) when flood construction and protection requirements apply to existing structures. DOB would be required to update the manual as needed.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: 2014

FISCAL IMPACT STATEMENT:

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY14
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: There would be no revenues generated for the city of New York by this legislation.

IMPACT ON EXPENDITURES: There would be no expenditures generated for the city of New York by this legislation. DOB will use existing resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Ralph P. Hernandez, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director
Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: Intro 1095 was introduced by Council and referred to the Housing and Buildings Committee on June 24, 2013. On June 27, 2013, a joint hearing was held on Intro 1095 by the Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts Committees, and the bill was laid over. An amendment was made and Proposed Intro 1095-A will be voted by the Housing and Buildings Committee on September 24, 2013. Upon a successful vote, Proposed Intro 1095-A will be submitted to and voted on by the Full Council on September 24, 2013.

DATE SUBMITTED TO COUNCIL: June 24, 2013

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1095-A:)

Int. No. 1095-A

By Council Members Nelson, Chin, Comrie, James, Mendez, Richards, Rose, Brewer, Jackson, Mark-Viverito, Williams, Barron, Eugene, Gennaro, Greenfield, Mealy and Van Bramer.

A Local Law to amend the administrative code of the city of New York, in relation to creating a manual on flood construction and protection standards.

Be it enacted by the Council as follows:

Section 1. Chapter one of title 28 of the administrative code of the city of New York is amended by adding a new section 28-103.23 to read as follows:

§ 28-103.23 Manual on flood construction and protection standards. *The commissioner shall create and make publicly available, in print and on the department's website, a manual explaining in detail the flood construction and protection requirements and standards applicable in the city. Such manual shall be made available in plain English and Spanish and in other languages as determined by the commissioner and shall be updated as necessary to reflect changes to applicable flood construction requirements and standards. Such manual shall include, but need not be limited to, a description and explanation of the following:*

1. The materials requirements imposed by applicable flood construction requirements and standards, including the elements of structures subject to such materials requirements;

2. The manner in which specific utilities and attendant equipment must be protected from flooding; and

3. The application of the flood construction and protection requirements and standards to existing structures.

§2. This local law shall take effect immediately.

ERIK MARTIN DILAN Chairperson; GALE A. BREWER, LEWIS A. FIDLER, JAMES F. GENNARO, ROBERT JACKSON, MELISSA MARK-VIVERITO, ROSIE MENDEZ, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, September 24, 2013.

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 Int. No. 1098-A

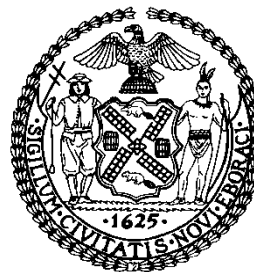
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the New York city plumbing code and the New York city building code, in relation to preventing the backflow of sewage.

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 24, 2013 (Minutes, page 2101), respectfully

REPORTS:

(For text of report, please see the Report for the Committee on Housing and Buildings for Int No. 1086-A printed in these Minutes).

The following is the text of the Fiscal Impact Statement for Int. No. 1098-A:



**THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION**

**PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY
DIRECTOR**

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1098-A

**COMMITTEE:
Housing and
Buildings**

TITLE: To amend the New York city plumbing code, in relation to preventing the backflow of sewage.

SPONSOR(S): Council Members Richards, Chin, James, Koo, Koppell, Lander, Mendez and Rose

SUMMARY OF LEGISLATION: Proposed Int. 1098-A requires new construction buildings in special flood areas to install backwater devices to prevent overflow from the public sewer system and specifies where such devices should be located. The bill also requires that sanitary systems be designed to minimize infiltration of flood waters, the discharge into flood waters and be designed to store 150% of the anticipated sewage flow during flood conditions.

EFFECTIVE DATE: This local law would take effect 90 days after enactment.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: 2014

FISCAL IMPACT STATEMENT:

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY14
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: There would be no revenues generated to the city of New York by this legislation.

IMPACT ON EXPENDITURES: There would be no expenditures generated to the city of New York by this legislation. The building owners would bear the costs.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Ralph P. Hernandez, Principal Legislative Financial Analyst

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director
Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: Intro 1098 was introduced by Council and referred to the Housing and Buildings Committee on June 24, 2013. On June 27, 2013, a joint hearing was held on Intro 1098 by the Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts Committees, and the bill was laid over. An amendment was made and Proposed Intro 1098-A will be voted by the Housing and Buildings Committee on September 24, 2013. Upon a successful vote, Proposed Intro 1098-A will be submitted to and voted on by the Full Council on September 24, 2013.

DATE SUBMITTED TO COUNCIL: June 24, 2013

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1098-A:)

Int. No. 1098-A

By Council Members Richards, Chin, James, Koo, Koppell, Lander, Mendez, Rose, Brewer, Jackson, Mark-Viverito, Williams, Barron, Eugene, Gennaro, Mealy, Van Bramer and Crowley.

A Local Law to amend the New York city plumbing code and the New York city building code, in relation to preventing the backflow of sewage.

Be it enacted by the Council as follows:

Section 1. Section 715.1 of the New York city plumbing code, as added by local law number 99 for the year 2005, is amended to read as follows:

715.1 Sewage backflow. Where fixtures, floor drains, or area drains are subject to overflow as the result of backwater from the public sewer system, accessible backwater valves shall be installed in the fixture drain pipe from such fixture, in the branch drain to such area drain or group of fixtures, or in the building drain at its point of exit from the building and downstream from the building trap. *Buildings located in areas of special flood hazard, as established by Section G102.2 of Appendix G of the New York City Building Code, shall be deemed to be subject to overflow as the result of backwater from the public sewer system and shall be provided with backwater valves in accordance with the requirements of Section 7.3.3 of ASCE 24 as modified by Appendix G of the New York City Building Code.*

§ 2. The New York city plumbing code is amended by adding a new section 1101.9.1 to read as follows:

1101.9.1 Backwater valves in special flood hazard areas. *Backwater valves shall be installed in storm drainage systems in accordance with Section 7.3.4 of ASCE 24 as modified by Appendix G of the New York City Building Code for all buildings located in the areas of special flood hazard, as established by Section G102.2 of Appendix G of the New York City Building Code.*

§ 3. Section BC G501.1 of the New York city building code, as added by local law number 33 for the year 2007, is amended by adding two new amendments to sections 7.3.3 and 7.3.4 of ASCE 24-05 to read as follows:

Section 7.3.3. *Section 7.3.3 is amended to read as follows:*

7.3.3 Plumbing Systems Installed Below Minimum Elevations. *Plumbing systems and components, including plumbing fixtures, shall be elevated above the elevation specified in Table 7-1. Where plumbing systems and components have openings below the elevation specified in Table 7-1, the openings shall be protected with automatic backwater valves or other automatic backflow devices. Devices shall be installed in each line that extends below the DFE to prevent release of sewage into floodwaters and to prevent infiltration by floodwaters into the plumbing. Redundant devices requiring human intervention shall be permitted. Plumbing systems shall be provided with backwater valves in the building drain at its point of exit from the building and downstream of the building trap.*

Section 7.3.4. *Section 7.3.4 is amended to read as follows:*

7.3.4 Sanitary Systems. *Sanitary systems shall be designed to minimize infiltration of flood waters into the systems and discharges from the systems into floodwaters. Vents and openings shall be above the elevation specified in Table 7-1. Sanitary system storage tanks shall be designed, constructed, installed, and anchored to resist at least 1.5 times the potential buoyant and other flood forces acting on an empty tank during design flood conditions. Tanks and piping shall be installed to resist local scour and erosion. Sanitary systems shall be provided with backwater valves at the point of exit from the building and downstream of the building trap. Sanitary systems that must remain operational during or immediately after the design flood or lesser floods shall be equipped with a sealed storage tank that is sized to store at least 150% of the anticipated sewage flow associated with occupancy during flood conditions and during subsequent periods of saturated soil when sewage will not percolate.*

§ 4. This local law shall take effect ninety days after its enactment.

ERIK MARTIN DILAN Chairperson; GALE A. BREWER, LEWIS A. FIDLER, JAMES F. GENNARO, ROBERT JACKSON, MELISSA MARK-VIVERITO, ROSIE MENDEZ, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, September 24, 2013.

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. 882

Report of the Committee on Land Use in favor of approving Application No. N 130212 ZRK submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter for an amendment to the Zoning Resolution modifying Article II, Chapter 3 (Residential Bulk Regulations in Residence Districts) and Article III, Chapter 5 (Bulk Regulations for Mixed Buildings in Commercial Districts) in portions of Community Districts 8 and 9, and Appendix F (Inclusionary Housing Designated Areas) in Community District 8, Borough of Brooklyn, Council Districts 35 and 36.

Report of The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on August 22, 2013 (Minutes, page 3361), respectfully

REPORTS:

SUBJECT

BROOKLYN CB's - 8 and 9 N 130212 ZRK

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, modifying Article II, Chapter 3 (Residential Bulk Regulations in Residence Districts) and Article III, Chapter 5 (Bulk Regulations for Mixed Buildings in Commercial Districts) in Portions of Community Districts 8 and 9, and concerning Appendix F (Inclusionary Housing Designated Areas) in Community District 8 in the Borough of Brooklyn.

INTENT

This text amendment along with the related action would create new Inclusionary Housing Designated Areas in Brooklyn Community District 8 and modify height and setback regulation along Eastern Parkway in Community Districts 8 and 9.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: Four

Witnesses Against: Three

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor: Weprin, Reyna, Comrie, Jackson, Vann, Lappin, Wills, Ignizio
Against: None **Abstain:** None

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio
Against: None **Abstain:** None

In connection herewith, Council Members Comrie and Weprin offered the following resolution:

Res. No. 1939

Resolution approving the decision of the City Planning Commission on Application No. N 130212 ZRK, for an amendment of the Zoning Resolution of the City of New York, modifying Article II, Chapter 3 (Residential Bulk Regulations in Residence Districts) and Article III, Chapter 5 (Bulk Regulations for Mixed Buildings in Commercial Districts) in Portions of Community Districts 8 and 9, and concerning Appendix F (Inclusionary Housing Designated Areas) in Community District 8 in the Borough of Brooklyn (L.U. No. 882).

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on August 9, 2013 its decision dated August 7, 2013 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the New York City Department of City Planning, for an amendment of the text of the Zoning Resolution of the City of New York, to modify Article II, Chapter 3 (Residential Bulk Regulations in Residence Districts) and Article III, Chapter 5 (Bulk Regulations for Mixed Buildings in Commercial Districts) in Portions of Community Districts 8 and 9, and concerning Appendix F (Inclusionary Housing Designated Areas) in Community District 8 in the Borough of Brooklyn (Application No. N 130212 ZRK), Community Districts 8 and 9, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to Application C 130213 ZMK (L.U. No. 883), a zoning map amendment for an approximately 55-block area in Brooklyn Community District 8 to establish contextual zoning district and establish new Inclusionary Housing Areas to incentivize the development of affordable housing;

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 September 16, 2013;

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 (CEQR No. 13DCP105K) issued March 18, 2013 (the "Negative Declaration"), which includes an (E) designation on selected sites to preclude potential noise and hazardous materials impacts ("E-302");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration and subject to the conditions of E-302.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, N 130212 ZRK, incorporated by reference herein, 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 old, to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution

Article II

RESIDENTIAL BULK REGULATIONS

Chapter 3

RESIDENTIAL BULK REGULATIONS IN RESIDENCE DISTRICTS

* * *

23-633

Street wall location and height and setback regulations in certain districts

R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

In the districts indicated, #street wall# location and height and setback regulations are set forth in this Section. The height of all #buildings# or other structures# shall be measured from the #base plane#. The provisions of Sections 23-64 (Alternate Front Setbacks) and 23-65 (Tower Regulations) shall not apply, except as otherwise set forth for #buildings# in R9D and R10X Districts.

(a) #Street wall# location

R6A R7A R7D R7X R9D

(1) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #wide streets# in R6 or R7 Districts without a letter suffix, the #street wall# shall be located no closer to the #street line# than the closest #street wall# of an existing #building# to such #street line#, located on the same #block#, and within 150 feet of such #building#. However, a #street wall# need not be located further from the #street line# than 15 feet. On #corner lots#, these #street wall# location provisions shall apply along only one #street line#.

R6B R7B R8B

(2) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# on #narrow streets# in R6 and R7 Districts without a letter suffix, the #street wall# of a #building# on a #zoning lot# with at least 50 feet of frontage along a #street line# shall be located no closer to the #street line# than the #street wall# of an adjacent existing #building#. On #zoning lots# with less than 50 feet of frontage along a #street line#, the #street wall# shall be located no closer to nor further from the #street line# than the #street wall# of an adjacent existing #building#. For all #zoning lots#, the #street wall# need not be located further from a #street line# than 15 feet. On #corner lots#, the #street wall# along one #street line# need not be located further from the #street line# than five feet.

R8A R8X R9A R9X R10A R10X

(3) In the districts indicated, for all #buildings#, and for #Quality Housing buildings# in R8 or R9 Districts without a letter suffix, and in other R10 Districts, the following #street wall# location provisions shall apply along #wide streets# and along #narrow streets# within 50 feet of their intersection with a #wide street#:

(i) the #street wall# shall extend along the entire #street# frontage of a #zoning lot#;

(ii) at least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and extend to at least the minimum base height specified in the table in this Section or the height of the #building#, whichever is less. The remaining 30 percent of the #aggregate width of street walls# may be recessed beyond eight feet of the #street line# provided any such recesses deeper than 10 feet along a #wide street# or 15 feet along a #narrow street# are located within an #outer court#; and

(iii) the #street wall# location provisions of paragraph (a)(3) of this Section, inclusive, shall not apply to houses of worship.

No #street wall# location provisions shall apply along any #narrow street# beyond 50 feet of their intersection with a #wide street#.

For the purposes of applying the provisions of paragraph (a) in this Section, where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway, in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

* * *

MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT AND MAXIMUM BUILDING HEIGHT

District ⁵	Minimum Base Height	Maximum Base Height	Maximum #Building or Structure# Height
R6B	30	40	50
R6 ²	30	45	55
R6 ¹ inside #Manhattan Core#	40	55	65
R6 ¹ outside #Manhattan Core# R6A	40	60	70
R7 ¹ inside #Manhattan Core# R7 ² R7B	40	60	75
R7 ¹ outside #Manhattan Core# R7A	40	65	80
R7D	60	85	100
R7X	60	85	125
R8B	55	60	75
R8 ²	60	80	105
R8 ¹ R8A	60	85	120
R8X	60	85	150
R9 ² R9A ²	60	95	135
R9A R9 ¹	60	102	145
R9D	60	85 ⁴	-- ³
R9X ²	60	120	160
R9X ¹	105	120	170
R10 ² R10A ²	60	125	185
R10 ¹ R10A ¹	125	150	210
R10X	60	85	-- ³

¹ For #zoning lots# or portions thereof within 100 feet of a #wide street#

² For #zoning lots# on a #narrow street# except portions of such #zoning lots# within a distance of 100 feet from an intersection with a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lot# beyond 100 feet of the #street line#

³ #Buildings or other structures# may exceed a maximum base height of 85 feet in accordance with paragraph (c) of this Section

⁴ For #buildings or other structures# that front upon an elevated rail line, the maximum base height shall be 25 feet

⁵ Where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway, in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

* * *

Article III
COMMERCIAL DISTRICT REGULATIONS

Chapter 5
BULK REGULATIONS FOR MIXED BUILDINGS IN COMMERCIAL DISTRICTS

* * *

35-24
Special Street Wall Location and Height and Setback Regulations in Certain Districts

C1-6A C1-7A C1-8A C1-8X C1-9A C2-6A C2-7A C2-7X C2-8A C4-2A C4-3A C4-4A C4-4D C4-5A C4-5D C4-5X C4-6A C4-7A C5-1A C5-2A C6-2A C6-3A C6-3D C6-3X C6-4A C6-4X

In the districts indicated, and in other C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, for all #buildings or other structures#, and for #Quality Housing buildings# in other #Commercial Districts#, #street wall# location and height and setback regulations are set forth in this Section. The height of all #buildings or other structures# shall be measured from the #base plane#.

* * *

(b) #Street wall# location

C1-6A C2-6A C4-2A C4-3A C4-4A C4-5A C4-5X

(1) In the districts indicated, and in C1 or C2 Districts when mapped within R6A, R6B, R7A, R7B or R7X Districts, and for #Quality Housing buildings# in other #Commercial Districts# with a residential equivalent of an R6 or R7 District, at least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and shall extend to at least the minimum base height specified in Table A of this Section for #buildings# in contextual districts, or Table B for #buildings# in non-contextual districts, or the height of the #building#, whichever is less. The remaining 30 percent of the #aggregate width of street walls# may be located beyond eight feet of the #street line#.

Existing #buildings# may be horizontally #enlarged# without regard to #street wall# location provisions, provided the amount of new #floor area# does not exceed 50 percent of the amount of #floor area# existing on June 29, 1994, and the #enlarged# portion of the #building# does not exceed one #story# or 15 feet in height, whichever is less.

For #zoning lots# bounded by more than one #street line#, these #street wall# location provisions shall be mandatory along only one #street line#.

Where only one #street line# is coincident with the boundary of a #Commercial District# mapped along an entire #block# front, the #street wall# location provisions shall apply along such coincident #street line#. For all other #zoning lots#, the #street wall# location provisions shall apply along at least one #street line#.

C1-7A C1-8A C1-8X C1-9A C2-7A C2-7X C2-8A C4-4D C4-5D

(2) In the districts indicated, and in C1 or C2 Districts when mapped within R7D, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X

Districts, and for #Quality Housing buildings# in other C1 or C2 Districts with a residential equivalent of an R8, R9 or R10 District, the following #street wall# location provisions shall apply along #wide streets# and along #narrow streets# within 50 feet of their intersection with a #wide street#:

(i) The #street wall# shall be located on the #street line# and extend along the entire #street# frontage of the #zoning lot# up to at least the minimum base height specified in Table A of this Section for #buildings# in contextual districts, or Table B for #buildings# in non-contextual districts, or the height of the #building#, whichever is less. To allow articulation of #street walls# at the intersection of two #street lines#, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection.

In C1 or C2 Districts when mapped within R9D Districts, to allow articulation of #street walls# at the intersection of two #street lines#, up to 50 percent of the area bounded by the two #street lines# and lines parallel to and 50 feet from such #street lines# may be unoccupied by a #building#. However, where one such #street line# fronts an elevated rail line, a minimum of 25 percent and a maximum of 50 percent of the area bounded by the two #street lines# and lines parallel to and 50 feet from such #street lines# shall be unoccupied by a #building#.

(ii) Recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#.

Above a height of 12 feet above the #base plane#, up to 30 percent of the #aggregate width of street walls# may be recessed beyond the #street line#, provided any such recesses deeper than 10 feet along a #wide street#, or 15 feet along a #narrow street#, are located within an #outer court#. Furthermore, no recesses shall be permitted within 30 feet of the intersection of two #street lines# except to articulate the #street walls# as set forth in paragraph (b)(2)(i) of this Section.

(iii) Where a continuous sidewalk widening is provided along the entire #block# frontage of a #street#, the boundary of the sidewalk widening shall be considered to be the #street line# for the purposes of this Section.

No #street wall# location rules shall apply along #narrow streets# beyond 50 feet of their intersection with a #wide street#.

For the purposes of applying the provisions of paragraph (b) of this Section, where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway, in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

* * *

TABLE A
HEIGHT AND SETBACK FOR BUILDINGS
OR OTHER STRUCTURES
IN CONTEXTUAL DISTRICTS

District ⁵	Minimum Base Height	Maximum Base Height	Maximum #Building# Height
C1 or C2 mapped in R6B	30	40	50
C1 or C2 mapped in R6A C4-2A C4-3A	40	60	70
C1 or C2 mapped in R7B	40	60	75
C1 or C2 mapped in R7A C1-6A C2-6A C4-4A C4-5A	40	65	80

C1 or C2 mapped in R7D C4-5D	60	85	100
C1 or C2 mapped in R7X C4-5X	60	85	125
C1 or C2 mapped in R8B	55	60	75
C1 or C2 mapped in R8A C1-7A C4-4D C6-2A	60	85	120
C1 or C2 mapped in R8X	60	85	150
C1 or C2 mapped in R9A ² C1-8A ² C2-7A ² C6-3A ²	60	95	135
C1 or C2 mapped in R9A ¹ C1-8A ¹ C2-7A ¹ C6-3A ¹	60	102	145
C1 or C2 mapped in R9D C6-3D	60	85 ⁴	-- ³
C1 or C2 mapped in R9X ² C1-8X ² C2-7X ² C6-3X ²	60	120	160
C1 or C2 mapped in R9X ¹ C1-8X ¹ C2-7X ¹ C6-3X ¹	105	120	170
C1 or C2 mapped in R10A ² C1-9A ² C2-8A ² C4-6A ² C4-7A ² C5-1A ² C5-2A ² C6-4A ²	60	125	185
C1 or C2 mapped in R10A ¹ C1-9A ¹ C2-8A ¹ C4-6A ¹ C4-7A ¹ C5-1A ¹ C5-2A ¹ C6-4A ¹	125	150	210
C1 or C2 mapped in R10X C6-4X	60	85	-- ³

1 For #zoning lots# or portions thereof within 100 feet of a #wide street#

2 For #zoning lots# on a #narrow street#, except portions of such #zoning lots# within a distance of 100 feet from an intersection with a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lots# beyond 100 feet of the #street line#

3 #Buildings# may exceed a maximum base height of 85 feet in accordance with paragraph (d) of this Section

4 For #buildings or other structures# that front upon an elevated rail line, the maximum base height shall be 25 feet

5 Where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway, in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

TABLE B
HEIGHT AND SETBACK FOR BUILDINGS
IN NON-CONTEXTUAL DISTRICTS

District ³	Minimum Base Height	Maximum Base Height	Maximum #Building# Height
C1 or C2 mapped in R6 ² C4-2 ² C4-3 ²	30	45	55
C1 or C2 mapped in R6 ¹ inside #Manhattan Core# C4-2 ¹ inside #Manhattan Core# C4-3 ¹ inside #Manhattan Core#	40	55	65
C1 or C2 mapped in R6 ¹ outside #Manhattan Core# C4-2 ¹ outside #Manhattan Core# C4-3 ¹ outside #Manhattan Core#	40	60	70
C1 or C2 mapped in R7 ² C1 or C2 mapped in R7 ¹ inside #Manhattan Core# C1-6 ² C1-6 ¹ inside #Manhattan Core# C2-6 ² C2-6 ¹ inside #Manhattan Core# C4-4 ² C4-4 ¹ inside #Manhattan Core# C4-5 ² C4-5 ¹ inside #Manhattan Core# C6-1 ² C6-1 ¹ inside #Manhattan Core#	40	60	75
C1 or C2 mapped in R7 ¹ outside #Manhattan Core# C1-6 ¹ outside #Manhattan Core# C2-6 ¹ outside #Manhattan Core# C4-4 ¹ outside #Manhattan Core# C4-5 ¹ outside #Manhattan Core# C6-1 ¹ outside #Manhattan Core#	40	65	80
C1 or C2 mapped in R8 ² C1-7 ² C4-2F ² C6-2 ²	60	80	105
C1 or C2 mapped in R8 ¹ C1-7 ¹ C4-2F ¹ C6-2 ¹	60	85	120
C1 or C2 mapped in R9 ² C1-8 ² C2-7 ² C6-3 ²	60	95	135
C1 or C2 mapped in R9 ¹ C1-8 ¹ C2-7 ¹ C6-3 ¹	60	102	145
C1 or C2 mapped in R10 ² C1-9 ² C2-8 ² C4-6 ² C4-7 ² C5 ² C6-4 ² C6-5 ² C6-6 ² C6-7 ² C6-8 ² C6-9 ²	60	125	185
C1 or C2 mapped in R10 ¹ C1-9 ¹ C2-8 ¹ C4-6 ¹ C4-7 ¹ C5 ¹ C6-4 ¹ C6-5 ¹ C6-6 ¹ C6-7 ¹ C6-8 ¹ C6-9 ¹	125	150	210

¹ For #zoning lots# or portions thereof within 100 feet of a #wide street#

² For #zoning lots# on a #narrow street#, except portions of such #zoning lots# within a distance of 100 feet from an intersection with a #wide street# and, for #zoning lots# with only #wide street# frontage, portions of such #zoning lots# beyond 100 feet of the #street line#

³ Where the Administrative Code establishes restrictions on the location of #buildings# on lots fronting upon and within 30 feet of Eastern Parkway, in Community Districts 8 and 9 in the Borough of Brooklyn, lines drawn 30 feet north of and 30 feet south of, and parallel to, Eastern Parkway shall be considered the northern and southern #street lines# of Eastern Parkway.

Note: In Community District 6 in the Borough of Brooklyn, the following #streets# shall be considered #narrow streets# for the purposes of applying height and setback regulations: Second, Carroll and President Streets, between Smith and Hoyt Streets; First Place, Second Place, Third Place and Fourth Place.

* * *

**APPENDIX F
Inclusionary Housing Designated Areas**

The boundaries of #Inclusionary Housing designated areas# are shown on the maps listed in this Appendix F. The #Residence Districts# listed for such areas shall include #Commercial Districts# where #residential buildings# or the #residential# portion of #mixed buildings# are governed by the #bulk# regulations of such #Residence Districts#. Where #Inclusionary Housing designated areas# are mapped in #Commercial Districts#, the residential district equivalent has instead been specified for each map.

Table of
Inclusionary Housing Designated Areas
by Zoning Map

Zoning Map	Community District	Maps of Inclusionary Housing Designated Areas
16c	Brooklyn CD 2	Maps 1-3
16c	Brooklyn CD 3	Map 1
16c	Brooklyn CD 6	Map 1
<u>16c</u>	<u>Brooklyn CD 8</u>	<u>Map 1</u>
16d	Brooklyn CD 7	Map 1
<u>16d</u>	<u>Brooklyn CD 8</u>	<u>Map 1</u>
16d	Brooklyn CD 14	Map 2
17a	Brooklyn CD 3	Maps 1-5
<u>17a</u>	<u>Brooklyn CD 8</u>	<u>Map 1</u>
<u>17b</u>	<u>Brooklyn CD 8</u>	<u>Map 1</u>
17b	Brooklyn CD 14	Map 2

* * *

Brooklyn

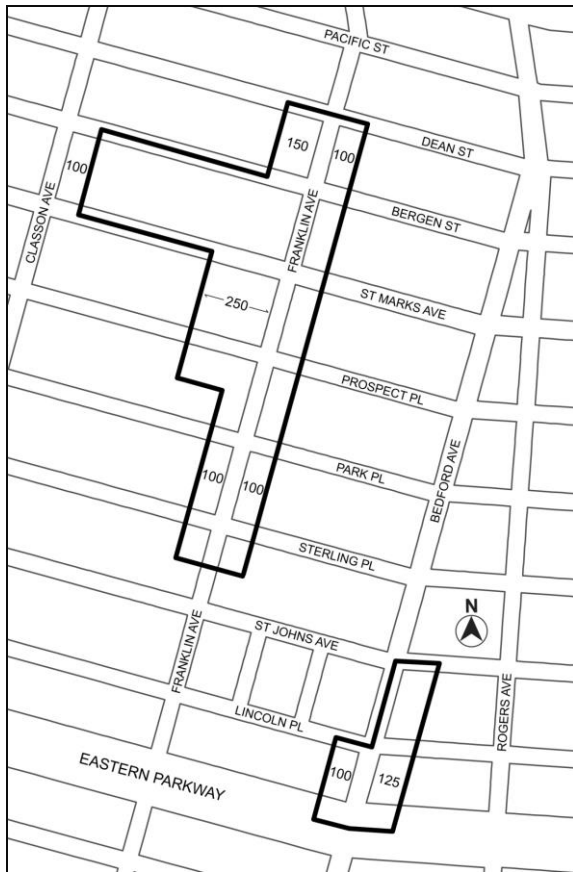
* * *

Brooklyn Community District 8

In the R7A and R7D Districts within the areas shown on the following Map 1:

Map 1

New Map



Portion of Community District 8, Brooklyn

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 883

Report of the Committee on Land Use in favor of approving Application No. C 130213 ZMK 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, Section Nos. 16c, 16d, 17a and 17b to rezone all or portions of 55 blocks in the western portion of Crown Heights, Borough of Brooklyn, Community District 8, Council Districts 35 and 36.

Report of The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on August 22, 2013 (Minutes, page 3361), respectfully

REPORTS:

SUBJECT

BROOKLYN CB's - 8 and 9 C 130213 ZMK

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. 16c, 16d, 17a and 17b.

INTENT

To amend the Zoning Map, Section Nos. 16c, 16d, 17a and 17b, to rezone approximately 55 blocks in Brooklyn Community District 8 and to establish contextual zoning districts and establish new Inclusionary Housing Areas.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: Four

Witnesses Against: Three

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013

The Subcommittee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In Favor: Weprin, Reyna, Comrie, Jackson, Vann, Lappin, Wills, Ignizio

Against: None **Abstain:** None

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio

Against: None **Abstain:** None

In connection herewith, Council Members Comrie and Weprin offered the following resolution:

Res. No. 1940

Resolution approving the decision of the City Planning Commission on ULURP No. C 130213 ZMK, a Zoning Map amendment (L.U. No. 883).

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on August 9, 2013 its decision dated August 7, 2013 (the "Decision"), on the application submitted by the New York City 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. 16c, 16d, 17a and 17b, to rezone all or portions of 55 blocks in Brooklyn Community District 8, which would enable the mapping of contextual zoning districts and establish new Inclusionary Housing Areas to incentivize the development of affordable housing, Community Districts 8 and 9 (ULURP No. C 130213 ZMK), Borough of Brooklyn (the "Application");

WHEREAS, the application is related to Application C 130212 ZRK (L.U. No. 882), a zoning text amendment to create new Inclusionary Housing Designated Areas in Brooklyn Community District 8 and modify height and setback regulations along Eastern Parkway in Community Districts 8 and 9;

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 September 16, 2013;

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 (CEQR No. 13DCP105K) issued March 18, 2013 (the "Negative Declaration"), which includes an (E) designation on selected sites to preclude potential noise and hazardous materials impacts ("E-302");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Negative Declaration and subject to the conditions of E-302.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 130213 ZMK, incorporated by reference herein, 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. 16c, 16d, 17a, and 17b:

1. eliminating from within an existing R6 District a C1-3 District bounded by:
 - a. Dean Street, a line 100 feet southeasterly of Classon Avenue, Bergen Street, and a line 100 feet northwesterly of Classon Avenue;
 - b. Prospect Place, a line 150 feet southeasterly of Franklin Avenue, a line midway between Sterling Place and St. Johns Place, and a line 150 feet northwesterly of Franklin Avenue;
 - c. Pacific Avenue, a line 150 feet easterly of Nostrand Avenue, St. Marks Avenue, and a line 150 feet westerly of Nostrand Avenue; and
 - d. St. Johns Place, a line 150 feet easterly of Nostrand Avenue, Eastern Parkway, and a line 150 feet westerly of Nostrand Avenue;
2. eliminating from within an existing R7-1 District a C1-3 District bounded by a line midway between Sterling Place and St. Johns Place, St. Francis Place and its northeasterly and southwesterly centerline prolongations, Eastern Parkway, and a line 150 feet northwesterly of Franklin Avenue;
3. eliminating from within an existing R6 District a C2-3 District bounded by:
 - a. Dean Street, a line 150 feet southeasterly of Franklin Avenue, Prospect Place, and a line 150 feet northwesterly of Franklin Avenue;
 - b. a line midway between Dean Street and Bergen Street, a line 100 feet easterly of Rogers Avenue, a line midway between Sterling Place and St. Johns Place, Rogers Avenue, Sterling Place, a line 150 feet northwesterly of Bedford Avenue, Bergen Street, and Rogers Avenue;
 - c. a line midway between Lincoln Place and Eastern Parkway, a line 150 feet easterly of Rogers Avenue, Eastern Parkway, and a line 150 feet westerly of Rogers Avenue; and
 - d. the northerly boundary line of the Long Island Railroad right-of-way, a line 100 feet easterly of Nostrand Avenue, a line midway between Atlantic Avenue and Pacific Street, a line 150 feet easterly of Nostrand Avenue, Pacific Street, a line 150 feet westerly of Nostrand Avenue, a line midway between Atlantic Avenue and Pacific Street, and a line 100 feet westerly of Nostrand Avenue;
4. changing from an R6 District to an R5B District property bounded by:
 - a. a line midway between Prospect Place and Park Place, a line 100 feet northwesterly of Bedford Avenue, a line midway between Park Place and Sterling Place, a line 225 feet southeasterly of Franklin Avenue, Park Place, and a line 100 feet southeasterly of Franklin Avenue; and
 - b. Sterling Place, a line 100 feet northwesterly of Bedford Avenue, St. Johns Place, the northeasterly centerline prolongation of St. Francis Place, a line midway between Sterling Place and St. Johns Place, and a line 100 feet southeasterly of Franklin Avenue;
5. changing from an R7-1 District to an R5B District property bounded by a line midway between Sterling Place and St. Johns Place, the northeasterly centerline prolongation of St. Francis Place, St. Johns Place, and a line 100 feet southeasterly of Franklin Avenue;
6. changing from a C4-3 District to an R6 District property bounded by St. Mark's Avenue, a line 150 feet easterly of Nostrand Avenue, St. Johns Place, and a line 100 feet easterly of Nostrand Avenue;
7. changing from an R6 District to an R6A District property bounded by:
 - a. Dean Street, a line 100 feet southeasterly of Classon Avenue, St. Mark's Avenue, the line the centerline of a Railroad right-of-way, a line midway between Prospect Place and Park Place, a line 175 feet southeasterly of Classon Avenue, a line midway between Sterling Place and St. Johns Place, a line 100 feet northeasterly of Washington Avenue, Park Place, Grand Avenue, Prospect Place, a line 100 feet southeasterly of Grand Avenue, a line midway between Prospect Place and Park Place, a line 450 feet northwesterly of Classon Avenue, Park Place, a line 100 feet northwesterly of Classon Avenue, Prospect Place, a line 500 feet northwesterly of Classon Avenue, a line midway between St. Mark's Avenue and Prospect Place, a line 100 feet northwesterly of Classon Avenue, St. Mark's Avenue, a line 450 feet southeasterly of Grand Avenue, Bergen Street, and a line 100 feet northwesterly of Classon Avenue;
 - b. Lincoln Place, a line 100 feet northwesterly of Bedford Avenue, Eastern Parkway, the southwesterly centerline prolongation of St. Francis Place, Lincoln Place, a line 275 feet southeasterly of Franklin Avenue, a line midway between Eastern Parkway and Lincoln Place, and a line 235 feet northwesterly of Bedford Avenue;
 - c. the northerly boundary line of the Long Island Railroad right-of-way, a line 100 feet easterly of Nostrand Avenue, St. Marks Avenue, a line 100 feet westerly of Nostrand Avenue, a line midway between Pacific Street and Dean Street, a line 100 feet northeasterly of Bedford Avenue, a line 100 feet easterly of Rogers Avenue, a line midway between St. Marks Avenue and Prospect Place, a line 150 feet westerly of Nostrand Avenue, a line midway between Sterling Place and St. Johns Place, Rogers Avenue, St. Johns Place, Bedford Avenue, Lincoln Place, a line 100 feet northwesterly of Bedford Avenue, Dean Street, a line 80 feet northwesterly of Franklin Avenue, Pacific Street, Bedford Avenue, a line midway between Atlantic Avenue and Pacific Street, and a line 100 feet westerly of Nostrand Avenue; and
 - d. St. Johns Place, a line 100 feet easterly of Nostrand Avenue, Eastern Parkway, a line 100 feet easterly of Rogers Avenue, a line midway between Lincoln Place and Eastern Parkway, and a line 100 feet westerly of Nostrand Avenue;
8. changing from an R7-1 District to an R6A District property bounded by:
 - a. a line midway between St. Johns Place and Sterling Place, Classon Avenue, St. Johns Place, and a line 100 feet northeasterly of Washington Avenue; and
 - b. Lincoln Place, the southwesterly centerline prolongation of St. Francis Place, Eastern Parkway, and a line 100 feet southeasterly of Franklin Avenue;
9. changing from a C4-3 District to an R6A District property bounded by St. Marks Avenue, a line 100 feet easterly of Nostrand Avenue, St. Johns Place, a line 100 feet westerly of Nostrand Avenue, a line midway between Sterling Place and St. Johns Place, a line 150 feet westerly of Nostrand Avenue, a line midway between St. Marks Avenue and Prospect Place, and a line 100 feet westerly of Nostrand Avenue;
10. changing from an R6 District to an R6B District property bounded by:
 - a. Bergen Street, a line 450 feet southeasterly of Grand Avenue, St. Marks Avenue, a line 100 feet northwesterly of Classon Avenue, a line midway between St. Marks Avenue and Prospect Place, a line 500 feet northwesterly of Classon Avenue, Prospect Place, a line 100 feet northwesterly of Classon Avenue, Park Place, a line 450 feet northwesterly of Classon Avenue, a line midway between Prospect Place and Park Place, a line 100 feet southeasterly of Grand Avenue, Prospect Place, and Grand Avenue;
 - b. a line midway between Prospect Place and Park Place, a line 100 feet northwesterly of Franklin Avenue, a line midway between Sterling Place and St. Johns Place, and a line 175 feet southeasterly of Classon Avenue;
 - c. Dean Street, a line 100 feet northwesterly of Bedford Avenue, a line midway between Prospect Place and Park Place, and a line 100 feet southeasterly of Franklin Avenue;

- d. Park Place, a line 225 feet southeasterly of Franklin Avenue, a line midway between Park Place and Sterling Place, a line 100 feet northwesterly of Bedford Avenue, Sterling Place, and a line 100 feet southeasterly of Franklin Avenue;
- e. St. Johns Place, a line 100 feet northwesterly of Bedford Avenue, Lincoln Place, a line 235 feet northwesterly of Bedford Avenue, a line midway between Lincoln Place and Eastern Parkway, a line 275 feet southeasterly of Franklin Avenue, and St. Francis Place;
- f. a line midway between Pacific Street and Dean Street, a line 100 feet westerly of Nostrand Avenue, St. Marks Avenue, a line 150 feet northwesterly of Nostrand Avenue, a line midway between St. Marks Avenue and Prospect Place, a line 100 feet easterly of Rogers Avenue, and a line 100 feet northeasterly of Bedford Avenue; and
- g. a line midway between Sterling Place and St. Johns Place, a line 150 feet westerly of Nostrand Avenue, St. Johns Place, a line 100 feet westerly of Nostrand Avenue, a line midway between Lincoln Place and Eastern Parkway, a line 100 feet easterly of Rogers Avenue, Eastern Parkway, a line 125 feet southeasterly of Bedford Avenue, St. Johns Place and Rogers Avenue;
11. changing from an R7-1 District to an R6B District property bounded by:
- a line midway between Sterling Place and St. Johns Place, a line 100 feet northwesterly of Franklin Avenue, a line midway between St. Johns Place and Lincoln Place, the line the centerline of a Railroad right-of-way, St. Johns Place, and a line 300 feet southeasterly of Classon Avenue; and
 - St. Johns Place, St. Francis Place, Lincoln Place, and a line 100 feet southeasterly of Franklin Avenue;
12. changing from a C4-3 District to an R6B District property bounded by:
- St. Marks Avenue, a line 100 feet westerly of Nostrand Avenue, a line midway between St. Marks Avenue and Prospect Place, and a line 150 feet westerly of Nostrand Avenue; and
 - a line midway between Sterling Place and St. Johns Place, a line 100 feet westerly of Nostrand Avenue, St. Johns Place, and a line 150 feet westerly of Nostrand Avenue;
13. changing from an R6 District to an R7A District property bounded by Dean Street, a line 100 feet southeasterly of Franklin Avenue, a line midway between Sterling Place and St. Johns Place, a line 100 feet northwesterly of Franklin Avenue, a line midway between Prospect Place and Park Place, the line the centerline of a Railroad right-of-way, St. Marks Avenue, a line 100 feet southeasterly of Classon Avenue, Bergen Street, and a line 150 feet northwesterly of Franklin Avenue;
14. changing from an R7-1 District to an R7A District property bounded by St. Johns Place, Classon Avenue, a line midway between Sterling Place, and St. Johns Place, a line 300 feet southeasterly of Classon Avenue, St. Johns Place, the line the centerline of a Railroad right-of-way, a line midway between St. Johns Place and Lincoln Place, a line 100 feet northwesterly of Franklin Avenue, a line midway between Sterling Place and St. Johns Place, a line 100 feet southeasterly of Franklin Avenue, Eastern Parkway, and a line 100 feet northeasterly of Washington Avenue;
15. changing from an R6 District to an R7D District property bounded by St. Johns Place, a line 125 feet southeasterly of Bedford Avenue, Eastern Parkway, a line 100 feet southeasterly of Bedford Avenue, Lincoln Place, and Bedford Avenue;
16. changing from an C8-2 District to an R7D District property bounded by Lincoln Avenue, a line 100 feet southeasterly of Bedford Avenue, Eastern Parkway, and a line 100 feet northwesterly of Bedford Avenue;
17. establishing within a proposed R6A District a C2-4 District bounded by:
- Prospect Place, Classon Avenue, Park Place, and a line 100 feet northwesterly of Classon Avenue;
 - Bergen Street, Bedford Avenue, a line midway between Dean Street and Bergen Street, a line 100 feet easterly of Rogers Avenue, a line midway between Sterling Place and

St. Johns Place, Rogers Avenue, Sterling Place, and a line 100 feet northwesterly of Bedford Avenue; and

- the northerly boundary line of the Long Island Railroad right-of-way, a line 100 feet easterly of Nostrand Avenue, a line midway between Pacific Street and Dean Street, Nostrand Avenue, Dean Street, a line 100 feet easterly of Nostrand Avenue, Eastern Parkway, a line 100 feet westerly of Nostrand Avenue, Dean Street, a line 50 feet westerly of Nostrand Avenue, a line midway between Atlantic Avenue and Pacific Street, and a line 100 feet westerly of Nostrand Avenue;

18. establishing within a proposed R7A District a C2-4 District bounded by Dean Street, a line 100 feet southeasterly of Franklin Avenue, Eastern Parkway, a line 100 feet northwesterly of Franklin Avenue, Bergen Street, and a line 150 feet northwesterly of Franklin Avenue; and

19. establishing within a proposed R7D District a C2-4 District bounded by Lincoln Place, a line 125 feet southeasterly of Bedford Avenue, Eastern Parkway, and a line 100 feet northwesterly of Bedford Avenue;

as shown in a diagram (for illustrative purposes only) dated March 18, 2013, and subject to the conditions of CEQR Declaration E-302, Community Districts 8 and 9, Borough of Brooklyn.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 898

Report of the Committee on Land Use in favor of approving Application no. 20135792 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of The Original Homestead Restaurant Inc., for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 56 9th Avenue, in the Borough of Manhattan, Community District 4, Council District 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(e) of the New York City Administrative Code.

Report of The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on August 22, 2013 (Minutes, page 3367), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4

20135792 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of The Original Homestead Restaurant Inc., d/b/a The Original Homestead Restaurant, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 56 9th Avenue.

WHEREAS, by letter dated September 16, 2013, and submitted to the City Council on September 16, 2013, the Applicant withdrew the recommendation for approval for the revocable consent.

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013

The Subcommittee recommends that the Land Use Committee approve the motion to file pursuant to withdrawal of the application by the Applicant.

In Favor: Weprin, Reyna, Comrie, Jackson, Vann, Lappin, Wills, Ignizio

Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio

Against: *None* **Abstain:** *None*

In connection herewith, Council Members Comrie and Weprin offered the following resolution:

Res. No. 1941

Resolution approving a motion to file pursuant to withdrawal of the application for a revocable consent for an unenclosed sidewalk café located at 56 9th Avenue, Borough of Manhattan (20135792 TCM; L.U. No. 898).

By Council Members Comrie and Weprin.

WHEREAS, the Department of Consumer Affairs filed with the Council on August 16, 2013 its approval dated August 16, 2013 of the petition of The Original Homestead Restaurant, Inc., d/b/a The Original Homestead Restaurant, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located 56 9th Avenue, Community District 4, 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(e) of the Administrative Code;

WHEREAS, by letter dated September 16, 2013, and submitted to the City Council on September 16, 2013, the Applicant withdrew the recommendation for approval for the revocable consent.

RESOLVED:

The Council approves the motion to file pursuant to withdrawal in accord with Rules 6.40a and 11.80 of the Rules of the Council.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

Coupled to be Filed Pursuant to Letter of Withdrawal.

Report for L.U. No. 899

Report of the Committee on Land Use in favor of approving Application no. 20135747 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of G Chew LLC., d/b/a Ciccio, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 190 6th Avenue, in the Borough of Manhattan, Community District 2, Council District 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(e) of the New York City Administrative Code.

Report of The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on August 22, 2013 (Minutes, page 3367), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 2

20135747 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of G Chew, LLC, d/b/a Ciccio, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 190 6th Avenue.

INTENT

To allow an eating or drinking place located on a property which abuts the street to establish, maintain and operate an unenclosed service area on the sidewalk of such street.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: One

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013

The Subcommittee recommends that the Land Use Committee approve the Petition.

In Favor: Weprin, Reyna, Comrie, Jackson, Vann, Lappin, Wills, Ignizio

Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio

Against: *None* **Abstain:** *None*

In connection herewith, Council Members Comrie and Weprin offered the following resolution:

Res. No. 1942

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 190 6th Avenue, Borough of Manhattan (20135747 TCM; L.U. No. 899).

By Council Members Comrie and Weprin.

WHEREAS, the Department of Consumer Affairs filed with the Council on August 16, 2013 its approval dated August 16, 2013 of the petition of G Chew, LLC, d/b/a Ciccio, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located 190 6th Avenue, Community District 2, 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(e) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on September 16, 2013; 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.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 900

Report of the Committee on Land Use in favor of approving Application no. 20135608 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Friedfield Breslin, LLC, d/b/a The John Dory Oyster Bar, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 1186 Broadway, in the Borough of Manhattan, Community District 5, Council District 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(e) of the New York City Administrative Code.

Report of The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on August 22, 2013 (Minutes, page 3368), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 5 20135608 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Friedfield Breslin, LLC, d/b/a The John Dory Oyster Bar, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 1186 Broadway.

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.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: None Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013

The Subcommittee recommends that the Land Use Committee approve the Petition.

In Favor: Weprin, Reyna, Comrie, Jackson, Vann, Lappin, Wills, Ignizio
Against: None Abstain: None

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio
Against: None Abstain: None

In connection herewith, Council Members Comrie and Weprin offered the following resolution:

Res. No. 1943

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 1186 Broadway, Borough of Manhattan (20135608 TCM; L.U. No. 900).

By Council Members Comrie and Weprin

WHEREAS, the Department of Consumer Affairs filed with the Council on August 16, 2013 its approval dated August 16, 2013 of the petition of Friedfield Breslin, LLC, d/b/a The John Dory Oyster Bar, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located 1186 Broadway, Community District 5, 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(e) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on September 16, 2013; 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.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 901

Report of the Committee on Land Use in favor of approving Application no. 20135625 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of FGNY 2847 Broadway LLC, d/b/a Five Guys Burger and Fries, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 2847 Broadway, in the Borough of Manhattan, Community District 9, Council District 9. 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 §20-226(e) of the New York City Administrative Code.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on August 22, 2013 (Minutes, page 3368), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 9 20135625 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of FGNY 2847 Broadway, LLC, d/b/a Five Guys Burgers and Fries, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 2847 Broadway.

The application was called up and introduced as L.U. 901. However, since no action will be taken, this application for a revocable consent will be filed.

A motion to file in accordance with Rule 7.90 of the Rules of the Council is required to remove L.U. 901 from the calendar.

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013

The Subcommittee recommends that the Land Use Committee approve the motion to file pursuant to Rule 7.90 of the Rules of the City Council.

In Favor: Weprin, Reyna, Comrie, Jackson, Vann, Lappin, Wills, Ignizio
Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio
Against: *None* **Abstain:** *None*

In connection herewith, Council Members Comrie and Weprin offered the following resolution:

Res. No. 1944

Resolution approving a motion to file L.U. 901 concerning an application for a revocable consent for an unenclosed sidewalk café located at 2847 Broadway, Borough of Manhattan (20135625 TCM; L.U. No. 901).

By Council Members Comrie and Weprin.

WHEREAS, the Department of Consumer Affairs filed with the Council on August 16, 2013 its approval dated August 16, 2013 of the petition of FGNY 2847 Broadway, LLC, d/b/a Five Guys Burgers and Fries, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 2847 Broadway, Community District 9, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the application was called up and introduced as L.U. 901. However, since no action will be taken, this application for a revocable consent will be filed;

WHEREAS, L.U. 901 will be filed pursuant to a motion to file in accordance with Rule 7.90 of the Rules of the Council;

RESOLVED:

The Council approves the motion to file in accord with Rules 6.40a, 7.90 and 11.80 of the Rules of the Council.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

Coupled to be Filed.

Report for L.U. No. 910

Report of the Committee on Land Use in favor of approving Application No. 20145012 (N 140006 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation by the Landmarks Preservation Commission of the New York Public Library, Seward Park Branch, 192-194 East Broadway (Designation List 465, LP-2531), Borough of Manhattan, Community Board 3, Council District 1, as a historic landmark.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 12, 2013 (Minutes, page 3469), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 3

20145012 HKM (N 140006 HKM)

Designation by the Landmarks Preservation Commission (List No. 465/LP-2531), pursuant to Section 3020 of the New York City Charter, of the landmark designation of the New York Public Library, Seward Park Branch, located at 192 East Broadway (a/k/a 192-194 East Broadway) (Block 311, Lot 31), as an historic landmark.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: Three **Witnesses Against:** None

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013 and recessed to September 18, 2013

The Subcommittee recommends that the Land Use Committee affirm the designation.

In Favor: Lander, Palma, Arroyo, Mendez, Williams
Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio
Against: *None* **Abstain:** *None*

In connection herewith, Council Members Comrie and Lander offered the following resolution:

Res. No. 1945

Resolution affirming the designation by the Landmarks Preservation Commission of the New York Public Library, Seward Park Branch, located at 192 East Broadway (a/k/a 192-194 East Broadway) (Block 311, Lot 31), Borough of Manhattan, Designation List No. 465, LP-2531 (L.U. No. 910; 20145012 HKM; N 140006 HKM).

By Council Members Comrie and Lander.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 3, 2013 a copy of its designation dated June 25, 2013 (the "Designation"), of the New York Public Library, Seward Park Branch, located at 192 East Broadway (a/k/a 192-194 East Broadway), Community District 3, Borough of Manhattan as a landmark and Tax Map Block 311, Lot 31, 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 August 23, 2013, its report on the Designation dated August 21, 2013 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 16, 2013; 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.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 911

Report of the Committee on Land Use in favor of approving Application No. 20145013 (N 140012 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation by the Landmarks Preservation Commission of the St. Louis Hotel, 34 East 32nd Street (Designation List 465, LP-2533), Borough of Manhattan, Community Board 5, Council District 2, as a historic landmark.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 12, 2013 (Minutes, page 3469), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 5 20145013 HKM (N 140012 HKM)

Designation by the Landmarks Preservation Commission (List No. 465/LP-2533), pursuant to Section 3020 of the New York City Charter, of the landmark designation of the St. Louis Hotel (now Hotel Grand Union), located at 34 East 32nd Street (a/k/a 34-36 East 32nd Street) (Block 861, Lot 52), as an historic landmark.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: One **Witnesses Against:** None

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013 and recessed to September 18, 2013

The Subcommittee recommends that the Land Use Committee affirm the designation.

In Favor: Lander, Palma, Arroyo, Mendez, Williams
Against: None **Abstain:** None

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio
Against: None **Abstain:** None

In connection herewith, Council Members Comrie and Lander offered the following resolution:

Res. No. 1946

Resolution affirming the designation by the Landmarks Preservation Commission of the St. Louis Hotel (now Hotel Grand Union), located at 34 East 32nd Street (a/k/a 34-36 East 32nd Street) (Tax Map Block 861, Lot 52) Borough of Manhattan, Designation List No. 465, LP-2533 (L.U. No. 911; 20145013 HKM; N 140012 HKM).

By Council Members Comrie and Lander.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 3, 2013 a copy of its designation dated June 25, 2013 (the "Designation"), of the St. Louis Hotel (now Hotel Grand Union), located at 34 East 32nd Street (a/k/a 34-36 East 32nd Street), Community District 5, Borough of Manhattan as a landmark and Tax Map Block 861, Lot 52, 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 August 23, 2013, its report on the Designation dated August 21, 2013 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 16, 2013; 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.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 912

Report of the Committee on Land Use in favor of approving Application No. 20145014 (N 140008 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation by the Landmarks Preservation Commission of 140 Broadway, originally the Marine Midland Bank Building (Designation List 465, LP-2530), Borough of Manhattan, Community Board 1, Council District 1, as a historic landmark.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 12, 2013 (Minutes, page 3470), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 1 20145014 HKM (N 140008 HKM)

Designation by the Landmarks Preservation Commission (List No. 465/LP-2530), pursuant to Section 3020 of the New York City Charter, of the landmark designation of 140 Broadway, originally the Marine Midland Bank Building (a/k/a 71-89 Cedar Street, 54-74 Liberty Street, 27-39 Nassau Street) (Tax Map Block 48, Lot 1), as an historic landmark.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: None **Witnesses Against:** None

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013 and recessed to September 18, 2013

The Subcommittee recommends that the Land Use Committee affirm the designation.

In Favor: Lander, Palma, Arroyo, Mendez, Williams
Against: None **Abstain:** None

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio

Against: *None* **Abstain:** *None*

In connection herewith, Council Members Comrie and Lander offered the following resolution:

Res. No. 1947

Resolution affirming the designation by the Landmarks Preservation Commission of 140 Broadway, originally the Marine Midland Bank Building (a/k/a 71-89 Cedar Street, 54-74 Liberty Street, 27-39 Nassau Street) (Tax Map Block 48, Lot 1), Borough of Manhattan, Designation List No. 465, LP-2530 (L.U. No. 912; 20145014 HKM; N 140008 HKM).

By Council Members Comrie and Lander.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 3, 2013 a copy of its designation dated June 25, 2013 (the "Designation"), of 140 Broadway, originally the Marine Midland Bank Building (a/k/a 71-89 Cedar Street, 54-74 Liberty Street, 27-39 Nassau Street), Community District 1, Borough of Manhattan as a landmark and Tax Map Block 48, 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 August 23, 2013, its report on the Designation dated August 21, 2013 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 16, 2013; 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.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 913

Report of the Committee on Land Use in favor of approving Application No. 20145015 (N 140010 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation by the Landmarks Preservation Commission of the Church of St. Paul the Apostle, 8 Columbus Avenue (Designation List 465A, LP-2260-A), Borough of Manhattan, Community Board 7, Council District 6, as a historic landmark.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 12, 2013 (Minutes, page 3470), respectfully

REPORTS:SUBJECT

MANHATTAN CB - 7

20145015 HKM (N 140010 HKM)

Designation by the Landmarks Preservation Commission (List No. 465-A/LP-2260-A), pursuant to Section 3020 of the New York City Charter, of the landmark designation of the Church of St. Paul the Apostle, located at 8 Columbus Avenue (a/k/a 8-10 Columbus Avenue, 120 West 60th Street) (Tax Map Block 1131, Lot 31), as an historic landmark.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: Two

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013 and recessed to September 18, 2013

The Subcommittee recommends that the Land Use Committee affirm the designation.

In Favor: Lander, Palma, Arroyo, Mendez, Williams

Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio

Against: *None* **Abstain:** *None*

In connection herewith, Council Members Comrie and Lander offered the following resolution:

Res. No. 1948

Resolution affirming the designation by the Landmarks Preservation Commission of the Church of St. Paul the Apostle, located at 8 Columbus Avenue (a/k/a 8-10 Columbus Avenue, 120 West 60th Street) (Tax Map Block 1131, Lot 31) Borough of Manhattan, Designation List No. 465-A, LP-2260-A (L.U. No. 913; 20145015 HKM; N 140010 HKM).

By Council Members Comrie and Lander.

WHEREAS, the Landmarks Preservation Commission filed with the Council on August 2, 2013 a copy of its designation dated July 23, 2013 (the "Designation"), of the Church of St. Paul the Apostle, located at 8 Columbus Avenue (a/k/a 8-10 Columbus Avenue, 120 West 60th Street), Community District 7, Borough of Manhattan as a landmark and Tax Map Block 1131, Lot 31, 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 August 23, 2013, its report on the Designation dated August 21, 2013 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 16, 2013; 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.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 914

Report of the Committee on Land Use in favor of approving Application No. 20145016 (N 140009 HKM), pursuant to §3020 of the Charter of the City of New York, concerning the designation by the Landmarks Preservation Commission of Beaumont Apartments, 730 Riverside Drive (Designation List 465, LP-2545), Borough of Manhattan, Community Board 9, Council District 7, as a historic landmark.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 12, 2013 (Minutes, page 3470), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 9 **20145016 HKM (N 140009 HKM)**

Designation by the Landmarks Preservation Commission (List No. 465/LP-2545), pursuant to Section 3020 of the New York City Charter, of the landmark designation of the Beaumont Apartments, located at 730 Riverside Drive (a/k/a 730-734 Riverside Drive and 621-625 West 150th Street) (Tax Map Block 2097, Lot 14), as an historic landmark.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: One **Witnesses Against:** None

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013 and recessed to September 18, 2013

The Subcommittee recommends that the Land Use Committee affirm the designation.

In Favor: Lander, Palma, Arroyo, Mendez, Williams

Against: None **Abstain:** None

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio

Against: None **Abstain:** None

In connection herewith, Council Members Comrie and Lander offered the following resolution:

Res. No. 1949

Resolution affirming the designation by the Landmarks Preservation Commission of the Beaumont Apartments, located at 730 Riverside Drive (a/k/a 730-734 Riverside Drive and 621-625 West 150th Street) (Tax Map Block 2097, Lot 14), Borough of Manhattan, Designation List No. 465, LP-2545 (L.U. No. 914; 20145016 HKM; N 140009 HKM).

By Council Members Comrie and Lander.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 3, 2013 a copy of its designation dated June 25, 2013 (the "Designation"), of the Beaumont Apartments, located at 730 Riverside Drive (a/k/a 730-734 Riverside Drive and 621-625 West 150th Street), Community District 9, Borough of Manhattan as a landmark and Tax Map Block 2097, Lot 14, 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 August 23, 2013, its report on the Designation dated August 21, 2013 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 16, 2013; 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.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 915

Report of the Committee on Land Use in favor of approving Application No. 20145017 (N 140011 HKK), pursuant to §3020 of the Charter of the City of New York, concerning the designation by the Landmarks Preservation Commission of Catherina Lipsius House, 670 Bushwick Avenue, aka 670-674 Bushwick Avenue and 931 Willoughby Avenue (Designation List 465, LP-2549), Borough of Brooklyn, Community Board 4, Council District 34, as a historic landmark.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 12, 2013 (Minutes, page 3471), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 4 **20145017 HKK (N 140011 HKK)**

Designation by the Landmarks Preservation Commission (List No. 465/LP-2549), pursuant to Section 3020 of the New York City Charter, of the landmark designation of Catherina Lipsius House (a/k/a Dr. Frederick A. Cook House), located at 670 Bushwick Avenue (a/k/a 670-674 Bushwick Avenue, 676 Bushwick Avenue and 931 Willoughby Avenue), (Block 3194, Lot 31), as an historic landmark.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: None **Witnesses Against:** None

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013 and recessed to September 18, 2013

The Subcommittee recommends that the Land Use Committee affirm the designation.

In Favor: Lander, Palma, Arroyo, Mendez, Williams

Against: None **Abstain:** None

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio

Against: *None* **Abstain:** *None*

In connection herewith, Council Members Comrie and Lander offered the following resolution:

Res. No. 1950

Resolution affirming the designation by the Landmarks Preservation Commission of the of Catherina Lipsius House (a/k/a Dr. Frederick A. Cook House), located at 670 Bushwick Avenue (a/k/a 670-674 Bushwick Avenue, 676 Bushwick Avenue and 931 Willoughby Avenue), (Tax Map Block 3194, Lot 31), Borough of Brooklyn, Designation List No. 465, LP-2549 (L.U. No. 915; 20145017 HKK; N 140011 HKK).

By Council Members Comrie and Lander.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 3, 2013 a copy of its designation dated June 25, 2013 (the "Designation"), of the Catherina Lipsius House (a/k/a Dr. Frederick A. Cook House), located at 670 Bushwick Avenue (a/k/a 670-674 Bushwick Avenue, 676 Bushwick Avenue and 931 Willoughby Avenue), Community District 4, Borough of Brooklyn as a landmark and Tax Map Block 3194, Lot 31, 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 August 23, 2013, its report on the Designation dated August 21, 2013 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 16, 2013; 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.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 916

Report of the Committee on Land Use in favor of approving Application No. 20145018 (N 140003 HKQ), pursuant to §3020 of the Charter of the City of New York, concerning the designation by the Landmarks Preservation Commission of the Forest Park Carousel, within Forest Park, 83-98 Woodhaven Boulevard (Designation List 465, LP-2528), Borough of Queens, Community Boards 5, 6, and 9, Council Districts 30 and 37, as a historic landmark.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 12, 2013 (Minutes, page 3471), respectfully

REPORTS:SUBJECT

QUEENS CB - 5, 6, 9

20145018 HKQ (N 140003 HKQ)

Designation by the Landmarks Preservation Commission (List No. 465/LP-2528), pursuant to Section 3020 of the New York City Charter, of the landmark designation of the Forest Park Carousel, within Forest Park, located at 83-98 Woodhaven Boulevard (Tax Map Block 3866, Lot 70 in part), as an historic landmark.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: *None* **Witnesses Against:** *None*

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013 and recessed to September 18, 2013

The Subcommittee recommends that the Land Use Committee affirm the designation.

In Favor: Lander, Palma, Arroyo, Mendez, Williams

Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio

Against: *None* **Abstain:** *None*

In connection herewith, Council Members Comrie and Lander offered the following resolution:

Res. No. 1951

Resolution affirming the designation by the Landmarks Preservation Commission of the Forest Park Carousel, within Forest Park, located at 83-98 Woodhaven Boulevard (Tax Map Block 3866, Lot 70 in part) Borough of Queens, Designation List No. 465, LP-2528 (L.U. No. 916; 20145018 HKQ; N 140003 HKQ).

By Council Members Comrie and Lander.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 3, 2013 a copy of its designation dated June 25, 2013 (the "Designation"), of the Forest Park Carousel, within Forest Park, located at 83-98 Woodhaven Boulevard, Community District 5, 6, and 9, Borough of Queens, as a landmark and Tax Map Block 3866, Lot 70 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 August 23, 2013, its report on the Designation dated August 21, 2013 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 16, 2013; 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.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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. 917

Report of the Committee on Land Use in favor of approving Application No. 20145019 (N 140004 HKQ), pursuant to §3020 of the Charter of the City of New York, concerning the designation by the Landmarks Preservation Commission of Jamaica High School (Now Jamaica Learning Center), 162-02 Hillside Avenue (Designation List 465, LP-2538), Borough of Queens, Community Board 12, Council District 24, as a historic landmark.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on September 12, 2013 (Minutes, page 3471), respectfully

REPORTS:

SUBJECT

QUEENS CB - 12

20145019 HKQ (N 140004 HKQ)

Designation by the Landmarks Preservation Commission (List No. 465/LP-2538), pursuant to Section 3020 of the New York City Charter, of the landmark designation of Jamaica High School (now Jamaica Learning Center), located at 162-02 Hillside Avenue (a/k/a 88-20 163rd Street) (Tax Map Block 9768, Lot 22), as an historic landmark.

PUBLIC HEARING

DATE: September 16, 2013

Witnesses in Favor: None **Witnesses Against:** None

SUBCOMMITTEE RECOMMENDATION

DATE: September 16, 2013 and recessed to September 18, 2013

The Subcommittee recommends that the Land Use Committee affirm the designation.

In Favor: Lander, Palma, Arroyo, Mendez, Williams
Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: September 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Reyna, Vann, Palma, Arroyo, Dickens, Lappin, Mendez, Koo, Lander, Levin, Weprin, Williams, Wills, Ignizio
Against: *None* **Abstain:** *None*

In connection herewith, Council Members Comrie and Lander offered the following resolution:

Res. No. 1952

Resolution affirming the designation by the Landmarks Preservation Commission of Jamaica High School (now Jamaica Learning Center), located at 162-02 Hillside Avenue (a/k/a 88-20 163rd Street) (Tax Map Block 9768, Lot 22) Borough of Queens, Designation List No. 465, LP-2538 (L.U. No. 917; 20145019 HKQ; N 140004 HKQ).

By Council Members Comrie and Lander.

WHEREAS, the Landmarks Preservation Commission filed with the Council on July 3, 2013 a copy of its designation dated June 25, 2013 (the "Designation"), of Jamaica High School (now Jamaica Learning Center), located at 162-02 Hillside Avenue (a/k/a 88-20 163rd Street), Community District 12, Borough of Queens, as a landmark and Tax Map Block 9768, Lot 22, 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 August 23, 2013, its report on the Designation dated August 21, 2013 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on September 16, 2013; 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.

LEROY G. COMRIE, Jr., Chairperson; DIANA REYNA, ALBERT VANN, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, September 18, 2013.

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 Transportation

Report for Int. No. 1088-A

Report of the Committee on Transportation 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 a study on permeable roadway and sidewalk materials.

The Committee on Transportation, to which the annexed amended proposed local law was referred on June 24, 2013 (Minutes, page 2073), respectfully

REPORTS:

INTRODUCTION

On September 24, 2013, the Committee on Transportation, chaired by Council Member James Vacca, held a hearing on Int. No. 1088-A, a Local Law to amend the Administrative Code of the City of New York, in relation to a study on permeable roadway and sidewalk materials. This was the second hearing on this bill. The first hearing on this item was held on June 27, 2013. At that hearing, the Committee heard testimony from the Mayor's Office of Long Term Planning and Sustainability and various other stakeholders and community members.

BACKGROUND

Superstorm Sandy

Superstorm Sandy hit New York City with intensity unparalleled by any coastal storm in recent history. The storm began on October 22, 2012, as a tropical depression cyclone in the southern Caribbean with wind speeds below 39 mph.¹ The depression strengthened and became Tropical Storm Sandy, with maximum winds of about 40 mph.² By October 24th, Sandy was a Category 1 hurricane and crossed Jamaica with reported winds of 80 mph. On October 26th, Sandy struck Cuba with winds of about 110 mph, just below the status of a major Category 3 hurricane and on October 27th, the storm turned to the northeast, off the coast of Florida, and left in its path an estimated death toll in the Caribbean of 70 or more. After briefly weakening to a tropical depression, Sandy re-intensified into a Category 1 hurricane and meteorologists warned that the storm would likely morph into a powerful, hybrid super-storm as it moved further northward towards a high-pressure cold front that

was expected to force Sandy to start turning to the northwest toward Baltimore, Washington, Philadelphia and New York.³ The full moon was expected to make Sandy's storm surge – initially expected to be 11 to 12 feet in some places – even a little higher as it made landfall.⁴

On October 29th Sandy made the anticipated sharp turn toward the northwest on a path to the coast of New Jersey.⁵ The storm began interacting with other weather systems and gained energy and by approximately 8 p.m. Sandy's center had come ashore near Atlantic City, New Jersey. The storm's unusual path from the southeast made its storm surge much worse for New Jersey and New York.⁶ In fact, the National Weather Service's New York office reported that the nearly 14 foot surge was a new record for a storm surge in the harbor. The surge topped the seawall at The Battery in Lower Manhattan and flooded parts of the City's subway system. The surge also flooded the Hugh Carey Tunnel that links Lower Manhattan to Brooklyn and did unspeakable damage throughout Staten Island, Coney Island, and the Rockaways.⁷ As a result, forty-three New Yorkers lost their lives – half of whom were on Staten Island – and tens of thousands were injured, or temporarily or permanently displaced by the storm's impact.⁸

Special Initiative for Rebuilding and Resiliency

In December 2012, Mayor Bloomberg created the Special Initiative for Rebuilding and Resiliency (SIRR) to address how to create a more resilient New York City in the wake of Superstorm Sandy, with a long-term focus on preparing for and protecting against the impacts of climate change.⁹ The final SIRR report (report) was released on June 11, 2013.¹⁰ The report describes what occurred during Sandy and gives proposed solutions to remedy issues related to the city's infrastructure and resilience against future perils. The report covers a broad range of subcategories from insurance policies to environmental protection and remediation. In addition, the report highlights communities that suffered especially severe damage during the storm and describes the precautions that need to be taken to prepare for future climate change and risks. The report estimates that cost for the recovery will be approximately \$19.5 billion.

Among its many other conclusions and recommendations, the report concludes that the "city's roadways are vulnerable to climate change threats in a variety of ways, including surface flooding from heavy downpours, wave action from storm surge, and asphalt damage from heat waves."¹¹ It further concludes that these threats "can have downstream impacts on other systems (including subways and utilities) and on private property."¹² The report recommends that future street reconstruction projects integrate a variety of climate resiliency features including storm water management best practices and tools which "allow water captured on streets to soak into the ground rather than flow into the sewer system, resulting in lower drainage loads on both sewers and wastewater treatment plants."¹³

Int. No. 1088-A would address this recommendation by requiring the City to study the feasibility of using permeable materials on roadways and sidewalks and to conduct a pilot program on the use of such materials.

INT. NO. 1088-A

Section one of Int. No. 1088-A would amend Subchapter 1 of Chapter 1 of Title 19 of the Administrative Code of the City of New York by adding a new section 19-155.

Subdivision (a) of new section 19-155 would require the Department of Transportation (DOT) and the Department of Environmental Protection (DEP) to conduct a study on the possible use of permeable materials on roadways and sidewalks under the jurisdiction of DOT. Such study would have to include the following: (i) the various types of permeable material for roadway and sidewalk use; (ii) the expected costs of such materials and the projected feasibility of such materials, including but not limited to durability, operational function and performance; (iii) the volume of stormwater anticipated to be permeated through such materials; (iv) recommendations and limitations regarding the use of permeable materials on roadways and sidewalks under the jurisdiction of DOT; (v) the maintenance practices for such roadways and sidewalks and estimated costs of such practices; (vi) the effect on utilities and other entities that will need to make cuts in such roadways and sidewalks; (vii) methods to restore the porosity of such roadways and sidewalks and an estimate of the costs of such methods; (viii) recommendations regarding the use and limitations of permeable materials by private property owners on private roadways, parking lots and sidewalks; and (ix) a determination on whether a uniform standard on the use of permeable materials in sidewalks within the City of New York is appropriate, based on the results of the study and pilot required pursuant to subdivisions (a) and (b) of section 19-155. If such uniform standards are deemed appropriate, DOT, in consultation with other agencies including but not limited to the Department of Parks and Recreation and the Department of Design and Construction, would have to make recommendations and exceptions for such uniform standard. Such study would have to be completed and delivered to the Speaker of the Council and posted on DOT's website not more than thirty months following the effective date of the local law that added the new section.

Subdivision (b) of new section 19-155 would require DOT to undertake a pilot program on the use of permeable materials on roadway and sidewalk surfaces as part of the study required pursuant to subdivision (a) of section 19-155. Such pilot program would have to include evaluation of permeable materials in three different types of roadway conditions and three different types of sidewalk conditions, with such conditions including but not limited to roadway and pedestrian volume and locations susceptible to flooding. DOT would have to consult with the DEP prior to choosing the locations for such pilot program. A report on such pilot program would

have to be completed and delivered to the Speaker of the Council and posted on DOT's website not more than one hundred twenty days following the completion of the pilot program.

Section two of Int. No. 1088-A **states that the** local law would take effect immediately upon enactment.

AMENDMENTS TO INT. NO. 1088

Technical changes were made throughout the bill to correct section numbers and to provide clarity of text. In addition, a significant change includes the elimination of the requirement that the City set, by rule, a uniform standard for sidewalks to improve water retention; however, the City's study on the use of permeable materials for roadways and sidewalks now must include recommendations and exceptions on the possibility of a uniform citywide permeable standard for sidewalk materials. These recommendations and exceptions would be made in consultation with other relevant City agencies.

The amended version of this bill also removes the requirement that the City study the possible alternative angulation of streets in areas prone to flooding near bodies of water, as streets within the City are already designed for such angulation.

The timeframe for the completion of the required study and pilot program was also amended to provide that the report and accompanying recommendations shall be provided to the Speaker of the Council and posted on DOT's website within 30 months from the law's effective date with respect to the study's report and within 120 days from the conclusion of the pilot program.

UPDATE

On September 23, 2013, the Committee on Transportation voted 9-0 with no abstentions in favor of this bill.

¹ See Posting of Willie Drye to National Geographic Newswatch, *A Timeline of Hurricane Sandy's Path of Destruction*, Nov. 2, 2012, available at: <http://newswatch.nationalgeographic.com/2012/11/02/a-timeline-of-hurricane-sandys-path-of-destruction/>; see also Hurricane Sandy Advisory Archive, NOAA National Hurricane Center, available at: <http://www.nhc.noaa.gov/archive/2012/SANDY.shtml>.

² Id.

³ Hurricane Sandy Advisory Archive, NOAA National Hurricane Center, available at: <http://www.nhc.noaa.gov/archive/2012/SANDY.shtml>.

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Hurricane Sandy After Action Plan. May 2013. Report and Recommendations to Mayor Michael R. Bloomberg.

⁹ New York City. *Special Initiative for Rebuilding and Resiliency*. New York, New York: 2013. http://nytelecom.vo.llnwd.net/o15/agencies/sirr/SIRR_spreads_Lo_Res.pdf

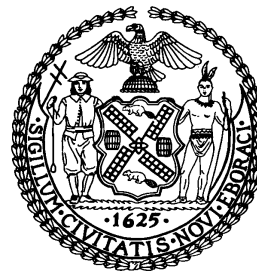
¹⁰ Id.

¹¹ Special Initiative for Rebuilding and Resiliency report, pg 183. http://www.nyc.gov/html/sirr/downloads/pdf/final_report/Ch_10_Transportation_FINAL_singles.pdf

¹² Id.

¹³ Id.

(The following is the text of the Fiscal Impact Statement for Int. No. 1088-A:)



**THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION
PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY
DIRECTOR
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO: 1088-A
COMMITTEE: Transportation**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to a study on permeable roadway and sidewalk materials.

SPONSORS: Council Members Gennaro, Brewer, Chin, Comrie, Fidler, Gonzalez, James, Koo, Koppell, Lander, Mark-Viverito, Mendez, Palma, Rose and Van Bramer

SUMMARY OF LEGISLATION: This legislation would amend subchapter 1 of chapter 1 of title 19 of the Administrative Code by adding a new section 19-155 entitled “Study of alternative roadway and sidewalk materials” to require the New York City Department of Transportation (DOT) and the Department of Environmental Protection (DEP) to conduct a study on the possible use of permeable materials on roadways and sidewalks under the jurisdiction of the DOT. Such study shall include various types of permeable material for roadway and sidewalk use, the expected costs of such materials and the projected feasibility of such materials, the volume of storm water anticipated to be permeated through such materials, recommendations and limitations regarding the use of permeable materials on roadways and sidewalks under the jurisdiction of the DOT, the maintenance practices for such roadways and sidewalks and estimated costs of such practices, the effect on utilities and other entities that will need to make cuts in such roadways and sidewalks, methods to restore the porosity of such roadways and sidewalks and an estimate of the costs of such methods, recommendations regarding the use and limitations of permeable materials by private property owners on private roadways, parking lots and sidewalks and a determination on whether a uniform standard on the use of permeable materials in sidewalks within the city of New York is appropriate, based on the results of the study and pilot required pursuant to this legislation. If such uniform standards are deemed appropriate, the DOT, in consultation with other agencies including but not limited to the Department of Parks and Recreation and the Department of Design and Construction, will make recommendations and exceptions to such uniform standard. The bill requires that the study be completed and delivered to the speaker of the council and posted on the department’s website not more than thirty months following the effective date of this legislation.

Additionally, the bill requires the DOT to conduct a pilot program on the use of permeable materials on roadway and sidewalk surfaces as part of the study required pursuant to subdivision a of this legislation. The pilot program will include the evaluation of permeable materials in three different types of roadway conditions and three different types of sidewalk conditions, with such conditions including but not limited to roadway and pedestrian volume and locations susceptible to flooding. DOT will consult with the DEP prior to choosing the locations for such pilot program. A report on the pilot program is to be completed and delivered to the speaker of the council and posted on the DOT’s website not more than one hundred twenty days following the completion of the pilot program.

EFFECTIVE DATE: This legislation would take effect immediately after its enactment into law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2015.

FISCAL IMPACT STATEMENT:

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY15
Revenues	\$0	\$0	\$0
Expenditures	\$469,839	\$939,678	\$939,678
Net	\$469,839	\$939,678	\$939,678

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is estimated that the impact on expenditures resulting from the enactment of this legislation would be approximately \$469,839 in Fiscal 2014, \$939,679 in Fiscal 2015 and \$469,838 in Fiscal 2016 for a total of \$1,879,356. Of that amount, \$1.3 million is for roadway pilot programs, \$238,290 is for sidewalk pilot programs, \$230,658 is for monitoring of the pilots, and \$93,475 is to conduct study and report on the pilots.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable

SOURCE OF INFORMATION: City Council Finance Division
NYC Department of Transportation

ESTIMATE PREPARED BY: Chima Obichere, Unit Head

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Tanisha Edwards, Finance Counsel

HISTORY: Introduced as Intro. 1088 by the Council on June 24, 2013 and referred to the Committee on Transportation. A hearing was held and the legislation was laid over on June 27, 2013 by the Committee jointly with the Committees on Housing and Buildings, Environmental Protection, Parks and Recreation and Waterfronts. An amended version of the legislation, Proposed Intro. 1088-A, will be considered by the Committee on Transportation on September 23, 2013 and upon successful vote, the bill would be submitted to the full Council for a vote.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1088-A:)

Int. No. 1088-A

By Council Members Gennaro, Brewer, Chin, Comrie, Fidler, Gonzalez, James, Koo, Koppell, Lander, Mark-Viverito, Mendez, Palma, Rose, Van Bramer, Rodriguez, Barron, Eugene, Greenfield and Mealy.

A Local Law to amend the administrative code of the city of New York, in relation to a study on permeable roadway and sidewalk materials.

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-155 to read as follows:

§19-155 Study of alternative roadway and sidewalk materials. a. The department and the department of environmental protection shall conduct a study on the possible use of permeable materials on roadways and sidewalks under the jurisdiction of the department. Such study shall include the following: (i) various types of permeable material for roadway and sidewalk use; (ii) the expected costs of such materials and the projected feasibility of such materials, including but not limited to durability, operational function and performance; (iii) the volume of stormwater anticipated to be permeated through such materials; (iv) recommendations and limitations regarding the use of permeable materials on roadways and sidewalks under the jurisdiction of the department; (v) the maintenance practices for such roadways and sidewalks and estimated costs of such practices; (vi) the effect on utilities and other entities that will need to make cuts in such roadways and sidewalks; (vii) methods to restore the porosity of such roadways and sidewalks and an estimate of the costs of such methods; (viii) recommendations regarding the use and limitations of permeable materials by private property owners on private roadways, parking lots and sidewalks; and (ix) a determination on whether a uniform standard on the use of permeable materials in sidewalks within the city of New York is appropriate, based on the results of the study and pilot required pursuant to subdivisions a and b of this section. If such uniform standards are deemed appropriate, the department, in consultation with other agencies including but not limited to the department of parks and recreation and the department of design and construction, shall make recommendations and exceptions to such uniform standard. Such study shall be completed and delivered to the speaker of the council and posted on the department’s website not more than thirty months following the effective date of the local law that added this section.

b. The department shall undertake a pilot program on the use of permeable materials on roadway and sidewalk surfaces as part of the study required pursuant to subdivision a of this section. Such pilot program shall include evaluation of permeable materials in three different types of roadway conditions and three different types of sidewalk conditions, with such conditions including but not limited to roadway and pedestrian volume and locations susceptible to flooding. The department shall consult with the department of environmental protection prior to choosing the locations for such pilot program. A report on such pilot program shall be completed and delivered to the speaker of the council and posted on the department’s website not more than one hundred twenty days following the completion of the pilot program.

§ 2. This local law shall take effect immediately.

JAMES VACCA, Chairperson; GALE A. BREWER, JESSICA S. LAPPIN, DARLENE MEALY, YDANIS A. RODRIGUEZ, DEBORAH L. ROSE, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, PETER A. KOO; Committee on Transportation, September 23, 2013.

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>
Persio Echavarria	85 Pitt Street #19 New York, N.Y. 10002	1
Jesus Seas	709 FDR Drive # IC New York, N.Y. 10009	2
Patrick Browne	467 West 159 th Street #22 New York, N.Y. 10032	7
Charlena Bunche	2015 Pitman Avneue Bronx, N.Y. 10466	12
Kayron J. Headley	371 Monroe Street #8 Brooklyn, N.Y. 11221	36
Phylicia Vega	39 Hemlock Street #3 Brooklyn, N.Y. 11208	37
Joanne Haneiph	446 East 46 th Street Brooklyn, N.Y. 11203	45

Approved New Applicants and Reapplicants

<u>Name</u>	<u>Address</u>	<u>District #</u>
Laura Feimore	333 Pearl Street #7N New York, N.Y. 10038	1
Stanislav A. Sazonov	89 Murray Street 45B New York, N.Y. 10007	1
Peter C. Deluca	199 Bleecker Street New York, N.Y. 10012	3
Madlyn I. Solivan	747 10 th Avenue #18F New York, N.Y. 10019	3
Harriette C. Reynolds	401 East 34 th Street i#N6E New York, N.Y. 10016	4
Jack P. Chanler	520 East 72 nd Street New York, N.Y. 10021	5
Diane Kay Krouse	301 East 78 th Street #3E New York, N.Y. 10031	5
Alan Robert Bell	322 Central Park West #2B New York, N.Y. 10025	6
Max Bernstein	215 West 88 th Street #3H New York, N.Y. 10024	6
Irene-Joyce Berzak-Schoen	670 West End Avenue New York, N.Y. 10025	6
Josefina Reyes	35 Hamilton Place #512 New York, N.Y. 10031	7
Dulce Santana	609 West 151 st Street #28 New York, N.Y. 10031	7
James E. Taylor	385 Edgecombe Avenue #54 New York, N.Y. 10031	8
Sylvia Colon	324 East 108 th Street #13B New York, N.Y. 10029	8
Ronald Morris	2065 1 st Avenue #12D New York, N.Y. 10029	8
Malcolm I. Roberts	382 Central Park West #190 New York, N.Y. 10025	8
Doris D. White	410 Central Park West #10C New York, N.Y. 10025	8
Gabrielle K. Connor	42 Edgecombe Avenue New York, N.Y. 10030	9
Denise Crenshaw	101-125 West 147 th Street #20B New York, N.Y. 10039	9
Sonya Y. Crute	159-48 Harlem River Drive #12H New York, N.Y. 10039	9
Geoffrey Eaton	8 West 118 th Street #20E New York, N.Y. 10026	9
Jean M. Hockaday	161-West 140 th Street #63 New York, N.Y. 10030	9
Sadie Rojas	480 Audubon Avenue #B51 New York, N.Y. 10040	10
Mark D. Goret	474 West 238 th Street #2H Bronx, N.Y. 10463	11

Mark McCormack	5790 Mosholu Avenue Bronx, N.Y. 10471	11
Bolanle B. Adewole	1020 East 229 th Street Bronx, N.Y. 10466	12
Jaczaida Ayala	140Casals Place #11B Bronx, N.Y. 10475	12
Linda S. Dicks-Walker	2942 Gunther Avenue Bronx, N.Y. 10469	12
Jhasmine J. Figueroa	3023 Fish Avenue Bronx, N.Y. 10469	12
Delores Hull	712 East Gunhill Road #4H Bronx, N.Y. 10467	12
Dagny J. McDaniel	3317 Tiemnan Avenue Bronx, N.Y. 10469	12
Mildred S. Soto-Perez	3040 Cruger Avenue Bronx, N.Y. 10467	12
Jewel M. Cleckley	273 Buttrick Avenue #2 Bronx, N.Y. 10465	13
Doris Maranon	3121 Middletown Road #12N Bronx, N.Y. 10461	13
Nizaly Marrero	2090 East Tremont Avenue #5H Bronx, N.Y. 10462	13
Lesly A. Miranda	1402 Outlook Avenue #3 Bronx, N.Y. 10465	13
Ann M. Progler	665 Thwaites Place #4J Bronx, N.Y. 10467	13
Petronila A. Peralta	15 North Street #6F Bronx, N.Y. 10468	14
Samuel O. Oladeru	1831 Trafalgar Place Bronx, N.Y. 10460	15
Mildred Abreu	1131 Odgen Avenue #8H Bronx, N.Y. 10452	16
Dahlia A. Williams	790 Concourse Village West #16M Bronx, N.Y. 10451	16
Monica Andon	3080 Park Avenue #7F Bronx, N.Y. 10451	17
Barbara Johnson	999 Aldus Street #2C Bronx, N.Y. 104593	17
Leslie G. Marcovitch	383 East 143 rd Street #4B Bronx, N.Y. 10454	17
Diana Perez	715 Fox Street #1B Bronx, N.Y. 10455	17
Beverly Scriven	880-3 Colgate Avenue Bronx, N.Y. 10473	17
Alfredo Figueroa	1500 Noble Avenue Bronx, N.Y. 10460	18
Jeanine Theresa Given	1710 Seward Avenue #2A Bronx, N.Y. 10473	18
Hector Maldonado	1430 Thieriot Avenue #4F Bronx, N.Y. 10460	18
Renee Thomas	2121 Saint Raymond's Avenue #7E Bronx, N.Y. 10462	18
Gina DeGori	23-42 College Point Blvd College Point, N.Y. 11356	19
Bruce Gamill	47-15 212 th Street Queens, N.Y. 11361	19
Lawrence Haspel	38-39 205 th Street Queens, N.Y. 11361	19
Neil Robert Berzak R.A.	195-04 56 th Avenue Queens, N.Y. 11365	20
Sabrina D. Chow	138-35 Elder Avenue #11E Queens, N.Y. 11355	20
Simone B. Eisenberg-Blaut	77-60 269 th Street Queens, N.Y. 11040	23
Dhyan Pal Singh	244-34 90 th Avenue Queens, N.Y. 11426	23
Marcita A. Cedeno	141-30 Pershing Cresent #1R Queens, N.Y. 11435	24
Sylvia Logiuduce-Lyba	47-57 59 th Street Queens, N.Y. 11377	26
Lisa O'Hara	51-01 39 th Avenue #L42 Queens, N.Y. 11104	26

Floristeane Anthony	173-22 105 th Avenue Queens, N.Y. 11433	27			Brooklyn, N.Y. 11212	
Cheddie M. DeFreitas	204-05 Linden Blvd St. Albans, N.Y. 11412	27		Sonia Mendez	793 Logan Street Brooklyn, N.Y. 11208	42
Betty Gayle	164-01 Foch Blvd Queens, N.Y. 11434	27		Frank Cassara	7524 15 th Avenue Brooklyn, N.Y. 11228	43
Gloria Burrows Sealy	172-24 133 rd Avenue Queens, N.Y. 114374	28		Lorraine Leader	1228 80 th Street Brooklyn, N.Y. 11228	43
Melvin Geier Sr.	163-35 130 th Avenue #80 Jamaica, N.Y. 11434	28		Nydia Ojeda	1590 West 8 th Street #1H Brooklyn, N.Y. 11204	44
Dorothy Islam	119-23 Inwood Street Queens, N.Y. 11436	28		Arlene Schreiber	1736 East 7 th Street Brooklyn, N.Y. 11223	44
Christina Vuong	85-22 67 th Drive Rego Park, N.Y. 11374	29		Joseph J. Jacobs	845 East 9 th Street Brooklyn, N.Y. 11230	45
Sandy B. Cruz	83-77 Woodhaven Blvd Woodhaven, N.Y. 11421	30		Joylynn Jarvis	1314 East 51 st Street Brooklyn, N.Y. 11234	45
Wayne Ruggiere	89-11 Jamaica Avenue Queens, N.Y. 11421	30		Eleanor A. Washington	4423 Avenue K Brooklyn, N.Y. 11234	45
Jean McKelvin	121-27 236 th Street Rosedale, N.Y. 11422	31		Lillian Benezra	2348 Knapp Street Brooklyn, N.Y. 11229	46
Hannah Omolade	109 Beach 56 th Place #202 Queens, N.Y. 11692	31		Lucy Campos	4105 Avenue P Brooklyn, N.Y. 11234	46
Trumilla Stone	144-39 168 th Street Queens, N.Y. 11434	31		Phillip Feigel	1327 East 54 th Street Brooklyn, N.Y. 11234	46
Barbara Walston	462 Brach 47 th Street Far Rockaway, N.Y. 11691	31		Frank J. Ferrara	2920 Avenue R Brooklyn, N.Y. 11229	46
Andrea Greenberg	86-10 151 st Avenue Howard Beach, N.Y. 11414	32		Gladys Schutzman	1199 East 53 rd Street #3D Brooklyn, N.Y. 11234	46
Barbara Koehler	187 Beach 121 st Street Rockaway Park, N.Y. 11694	32		Rushelle Sharpe	1246 East 83 rd Street Brooklyn, N.Y. 11236	46
Gloria J. Scheuermann	161-36 99 th Street Howard Beach, N.Y. 11414	32		Betti Altieri	2430 85 th Avenue Brooklyn, N.Y. 11214	47
Marlene N. Seara	149-49 114 th Street Queens, N.Y. 11420	32		Wayne Butler	3743 Nautilus Avenue Brooklyn, N.Y. 11224	47
Douglas W. Elliott	118 Pierrepont Street Brooklyn, N.Y. 11201	33		Frank John Musella	237 Bay 43 rd Street # Brooklyn, N.Y. 11214	47
Evelyn Falcon	122 St Marks Place Brooklyn, N.Y. 11217	33		Hyacinth R. Taylor	18 Avenue V #3E Brooklyn, N.Y. 11223	47
Angel L. Rivera	568 Pacific Street #1C Brooklyn, N.Y. 11217	33		Diana Avishalom	2528 East 19 th Street #2 Brooklyn, N.Y. 11235	48
Wilfredo Garcia	274 South 2 nd Street #7 Brooklyn, N.Y. 11211	34		Rosemarie Gagliardi	2530 East 23 rd Street Brooklyn, N.Y. 11235	48
Beverly Shider	25 Boerum Street #14L Brooklyn, N.Y. 11206	34		Mikhail Khochinsky	2323 East 12 th Street # IF Brooklyn, N.Y. 11229	48
Abraham A. Brikman	679 Montgomery Street #3L Brooklyn, N.Y. 11213	35		Marie R. Lennon	2939 Avenue Y #4E Brooklyn, N.Y. 11235	48
Leonard A. Jackson	122 Ashland Place #7E Brooklyn, N.Y. 11201	35		Ephraim Nierenberg	966 East 23 rd Street Brooklyn, N.Y. 11210	48
Deborah Perez	285 Adelphi Street Brooklyn, N.Y. 11205	35		Lev Tober	3101 Ocean Parkway #4S Brooklyn, N.Y. 11235	48
Stephen H. Serota	217 Washington Avenue Brooklyn, N.Y. 11205	35		Seabron P. Barefield	60 Hamilton Avenue #6L Staten Island, N.Y. 10301	49
Madeleine Whittington	1197 Carroll Street Brooklyn, N.Y. 11225	35		Elaine M. Burke	32 Regal Walk Staten Island, N.Y. 10303	49
Denita Williams	333 Lafayette Avenue #10K Brooklyn, N.Y. 11238	35		Angela Buttafuccho	193 Morrison Avenue Staten Island, N.Y. 10310	49
Berlinda McLeod	433 Lafayette Avenue #7F Brooklyn, N.Y. 11238	36		Judith A. Capolongo	25 Devon Place Staten Island, N.Y. 10301	49
Yvonne Greenidge	78 Cooper Street Brooklyn, N.Y. 11207	37		Jerry J. Cocozello	275 Pelton Avenue Staten Island, N.Y. 10310	49
William Lugo	407 Menahan Street Brooklyn, N.Y. 11237	37		Dorothy Raffo	20 Herkimer Street Staten Island, N.Y. 10301	49
Zulma Rivera	558 Seventh Street #413 Brooklyn, N.Y. 11215	38		Samuel Amster	123 Pembroke Street Brooklyn, N.Y. 11235	50
Sandra Crawford	688 Rockaway Avenue #2B Brooklyn, N.Y. 11212	41		Joan Baldwin	301 Humbert Street Staten Island, N.Y. 10305	50
Carolyn Nixon	903 Lenox Road #D10 Brooklyn, N.Y. 11203	41		Bruce Gonsky	89 Elson Street Staten Island, N.Y. 10314	50
Lloyd Roberts	123 East 92 nd Street #B2 Brooklyn, N.Y. 11212	41		Saralynn Halbreich	396 Hawthorne Avenue Staten Island, N.Y. 10314	50
Carolyn Jennings-Carson	757 East 103 rd Street #2E Brooklyn, N.Y. 11236	42		Sang In Lee	1650 Richmond Avenue Staten Island, N.Y. 10314	50
Gwendolyn Mattocks	861 Rockaway Avenue #2C	42		Catherine McKeon	567 Quincy Avenue Staten Island, N.Y. 10305	50

Paticica Nappi	351 Ross Avenue Staten Island, N.Y. 10306	50
Anatoly Pertikovskiy	1169 Father Capodanno Blvd Staten Island, N.Y. 10306	50
Alisher Salyamov	867 Nugent Avenue Staten Island, N.Y. 10306	50
Megan E. Stair	425 Falcon Avenue Staten Island, N.Y. 10306	50
Andrew Vanore	39 Darcey Avenue #1B Staten Island, N.Y. 10314	50
Jorge F. Canepa	3642 Amboy Road Staten Island, N.Y. 10308	51
Diane Delorenzo	48 Fenway Circle Staten Island, N.Y. 10308	51
Joseph F. DiFede	27 Hilton Street Staten Island, N.Y. 103125	51
Lorraine Garguilo	97 Thollen Street Staten Island, N.Y. 10306	51
Robin Jacknow	17 Deborah Loop Staten Island, N.Y. 10312	51
Veronica C. Lewis	30 Croft Court Staten Island, N.Y. 10306	51
Jenny Schwartzbaum	300 Loretto Street Staten Island, N.Y. 10307	51
Carmen G. Siconolfi	45 Rally Court Staten Island, N.Y. 10312	51

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) | Int 974-A - | In relation to prohibiting discrimination in employment based on pregnancy, childbirth, or a related medical condition. |
| (2) | Int 1086-A - | In relation to requiring that toilets and faucets be capable of operating without an external supply of electrical power. |
| (3) | Int 1088-A - | In relation to a study on permeable roadway and sidewalk materials. |
| (4) | Int 1090-A - | In relation to studying the effects of wind on certain buildings. |
| (5) | Int 1095-A - | In relation to creating a manual on flood construction and protection standards. |
| (6) | Int 1098-A - | In relation to preventing the backflow of sewage. |
| (7) | Int 1105-A - | In relation to planning for resiliency to climate change as a responsibility of the office of long-term planning and sustainability. |
| (8) | Res 1937 - | Designation of funding in Expense Budget (Transparency Resolution). |
| (9) | L.U. 882 & Res 1939 - | App. N 130212 ZRK , amendment to the Zoning Resolution modifying Article II, Chapter 3 (Residential Bulk Regulations in Residence Districts) and Article III, Chapter 5 (Bulk Regulations for Mixed Buildings in Commercial Districts) in portions of Community Districts 8 and 9, and Appendix F (Inclusionary Housing Designated Areas) in Community District 8, Borough of Brooklyn, Council Districts 35 and 36. |
| (10) | L.U. 883 & Res 1940 - | App. C 130213 ZMK , amendment to the Zoning Map, Section Nos. 16c, 16d, 17a and 17b to rezone all or portions of 55 blocks in the western portion of Crown Heights, Borough of Brooklyn, Community District 8, Council Districts 35 and 36. |
| (11) | L.U. 898 & Res 1941 - | App. 20135792 TCM , 56 9th Avenue, in the Borough of Manhattan, Community District 4, Council District 3 (Coupled to be Filed pursuant to a Letter of Withdrawal). |

- | | | |
|------|---|--|
| (12) | L.U. 899 & Res 1942 - | App. 20135747 TCM , 190 6th Avenue, in the Borough of Manhattan, Community District 2, Council District 3. |
| (13) | L.U. 900 & Res 1943 - | App. 20135608 TCM , 1186 Broadway, in the Borough of Manhattan, Community District 5, Council District 3. |
| (14) | L.U. 901 & Res 1944 - | App. 20135625 TCM , 2847 Broadway, in the Borough of Manhattan, Community District 9, Council District 9 (Coupled to be Filed). |
| (15) | L.U. 910 & Res 1945 - | App. 20145012 (N 140006 HKM) , 192-194 East Broadway (Designation List 465, LP-2531), Borough of Manhattan, Community Board 3, Council District 1, as a historic landmark. |
| (16) | L.U. 911 & Res 1946 - | App. 20145013 (N 140012 HKM) , 34 East 32nd Street (Designation List 465, LP-2533), Borough of Manhattan, Community Board 5, Council District 2. |
| (17) | L.U. 912 & Res 1947 - | App. 20145014 (N 140008 HKM) , 140 Broadway, originally the Marine Midland Bank Building (Designation List 465, LP-2530), Borough of Manhattan, Community Board 1, Council District 1. |
| (18) | L.U. 913 & Res 1948 - | App. 20145015 (N 140010 HKM) , 8 Columbus Avenue (Designation List 465A, LP-2260-A), Borough of Manhattan, Community Board 7, Council District 6. |
| (19) | L.U. 914 & Res 1949 - | App. 20145016 (N 140009 HKM) , 730 Riverside Drive (Designation List 465, LP-2545), Borough of Manhattan, Community Board 9, Council District 7. |
| (20) | L.U. 915 & Res 1950 - | App. 20145017 (N 140011 HKK) , 670 Bushwick Avenue, aka 670-674 Bushwick Avenue and 931 Willoughby Avenue (Designation List 465, LP-2549), Borough of Brooklyn, Community Board 4, Council District 34. |
| (21) | L.U. 916 & Res 1951 - | App. 20145018 (N 140003 HKQ) , 83-98 Woodhaven Boulevard (Designation List 465, LP-2528), Borough of Queens, Community Boards 5, 6, and 9, Council Districts 30 and 37. |
| (22) | L.U. 917 & Res 1952 - | App. 20145019 (N 140004 HKQ) , 162-02 Hillside Avenue (Designation List 465, LP-2538), Borough of Queens, Community Board 12, Council District 24. |
| (23) | L.U. 920 & Res 1938 - | Mascot Flats |
| (24) | Resolution approving various persons Commissioners of Deeds. | |

The President Pro Tempore (Council Member Comrie) 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, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Fidler, Foster, Gennaro, Gentile, Gonzalez, Greenfield, Halloran, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Palma, Recchia, Reyna, Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, 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 **Int No. 974-A**:

Affirmative – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Fidler, Foster, Gennaro, Gentile, Gonzalez, Greenfield, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Palma, Recchia, Reyna, Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, and the Speaker (Council Member Quinn). – **47**.

Abstention – Halloran – **1**.

The following Introductions were sent to the Mayor for his consideration and approval: Int Nos. 974-A, 1086-A, 1088-A, 1090-A, 1095-A, 1098-A, and 1105-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. 1708

Report of the Committee on Housing and Buildings in favor of approving a Resolution calling upon the United States Congress to enact and the President to sign the Flood Victim Premium Relief Act of 2013.

The Committee on Housing and Buildings, to which the annexed resolution was referred on April 9, 2013 (Minutes, page 1035), respectfully

REPORTS:

Introduction

On September 24, 2013, the Committee on Housing and Buildings ("the Committee"), chaired by Council Member Erik Martin Dilan, will consider a number of resolutions including Res. No. 1708, a "Resolution calling upon the United States Congress to enact and the President to sign the Flood Victim Premium Relief Act of 2013;" Res. No. 1808, a "Resolution calling upon the United States Congress to amend the Biggert-Waters Flood Insurance Reform Act of 2012;" and Res. No. 1927, a "Resolution calling upon the United States Congress to enact and the President to sign H.2887/S.1480, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide assistance for condominiums and housing cooperatives damaged by a major disaster, and for other purposes."

On June 27, 2013, the Committee held a joint hearing with the Committees on Environmental Protection, Parks and Recreation, Transportation and Waterfronts on Res. No. 1708 and Res. No. 1808 and twenty-one other legislative items as well as an oversight hearing titled, "Rebuilding after Sandy and Improving the Resiliency of the City's Infrastructure." The Committee received testimony from the New York City Special Initiative for Rebuilding and Resiliency ("SIRR"), the Mayor's Office of Long Term Planning and Sustainability, and interested members of the public at this hearing. For additional information regarding said hearing, please refer to the Committee's June 27th Committee Report, available online at legistar.council.nyc.gov.

Background

In 1968, Congress passed the National Flood Insurance Act, which created a National Flood Insurance Program ("NFIP") that provides flood insurance to homeowners, renters, and businesses, thus providing them with a way to financially protect themselves from floods. Homeowners, renters, and businesses in NFIP participating communities are able to, and in many cases required to, purchase flood insurance. In order to participate in the NFIP, communities must adopt and enforce federally mandated requirements, including the adoption of Flood Insurance Rate Maps ("FIRMs"). FIRMs are the official maps, created by the Federal Emergency Management Agency ("FEMA"), used by a community to identify areas most prone to flooding and to set insurance rates and requirements accordingly. Since its inception, the NFIP has offered reduced flood insurance premium rates to property owners under certain circumstances including to properties built before they were mapped into a FIRM and thereby needed insurance or properties built to conform to an existing FIRM but that would no longer be compliant because their FIRM changed.

FEMA is currently updating and modernizing the FIRMs for New York City, which were last updated in 2007. As part of that process, FEMA released Advisory Base Flood Elevation maps, subsequently superseded by Preliminary Work Maps, which are predictive of the updated FIRMs expected to be adopted within the next two years.³¹ The recently released Preliminary Work Maps indicate that the number of structures that will be located in flood prone areas could more than double when the updated FIRMs are adopted. If that is the case, many property owners will be required to purchase flood insurance for the first time and many others will require a greater amount of insurance than ever before.

In July 2012, President Obama signed into law the Biggert-Waters Flood Insurance Reform Act of 2012 (the "Act"), which reauthorized the NFIP for five years, and made significant changes to the way flood insurance premium rates would be calculated for property owners. The Act requires flood insurance premium rates

for the Lower Ma_____

³¹ See FEMA's Preliminary Work Maps for New York City available online at <http://www.region2coastal.com/home>.

for all properties located in NFIP participating areas to accurately reflect the current actuarial risk to such property from floods. These actuarial rates can be significantly higher than the reduced rates some property owners are currently subject to. Eventually, the Act will eliminate all reduced flood insurance premium rates. Under the Act, when FEMA adopts updated FIRMs, properties that formerly received reduced rates will be required to pay actuarial-based premium rates which will be phased in over a five-year period at 20 percent per year.

Res. No. 1708

The Resolution calls upon the United States Congress to enact and the President to sign the Flood Victim Premium Relief Act of 2013. This act would extend the phase-in of new insurance premiums from five years to eight years, with the rate increasing by 5 percent for the first four years and 20 percent for the next four years. This change would allow homeowners more time to comply with FIRMs prior to their rates increasing dramatically.

Res. No. 1808

The Resolution calls upon the United States Congress to amend the Act to minimize the burden of flood insurance premium rate increases on homeowners by:

- Reducing the 20 percent flood insurance premium rate increase per year the Act imposes;
- Allowing properties that have been newly mapped into the floodplain to participate in the phase-in of actuarial rates;
- Allowing for current subsidized rates to continue upon the sale of a property;
- Allowing for higher deductibles in order to reduce premiums; and
- Reducing premiums for the actual risk-mitigating alterations owners make to their buildings.

Res. No. 1927

In New York City, cooperative and condominium ownership is common, housing over half a million families. Cooperative and condominium ownership is a unique form of home ownership. In a cooperative, title to the property as a whole is held by a cooperative corporation with tenants receiving proprietary leases for the occupancy of individual units as a result of their status as shareholders in the corporation. In a condominium, there is separate and distinct ownership of individual units and joint ownership of common areas.

Among the thousands of structures affected by Superstorm Sandy in 2012 were cooperatives and condominiums. These structures suffered extensive damage to individual units and common areas such as utility rooms, lobbies, and roofs. In response to this damage, condominiums were eligible to receive federal assistance to repair individual units because condominium associations are able to receive separate flood insurance policies for each of their units. However, cooperatives are only eligible to receive one flood insurance policy for the entire building. Neither cooperatives nor condominiums were eligible for federal assistance to repair common areas.

Additionally, under current Federal Emergency Management Agency ("FEMA") policy, cooperative and condominium associations are considered business entities, making them ineligible for the types of federal disaster assistance available to single-family homes. Presently, cooperative and condominium associations are only eligible for federal loans while single-family homes are eligible for both federal grants and loans to make repairs. Due to their ineligibility for federal grants, cooperative and condominium associations have been taking a number of measures to cover the cost of Sandy-related repairs including incurring loans, spending significant portions of a building's reserves, or in some cases, imposing assessments on individual homeowners.

The Resolution calls upon the United States Congress to enact and the President to sign H.2887/S.1480, a bill to amend the Stafford Act to provide assistance for condominiums and housing cooperatives damaged by a major disaster, and for other purposes. This bill, introduced in 2013 by Rep. Steve Israel (D-NY) and Sen. Charles Schumer (D-NY) respectively, would amend the Stafford Act to provide cooperative and condominium associations with the same federal disaster assistance available to single-family homeowners. The bill would also allow the President to regulate the maximum amount of federal disaster assistance that an association for a cooperative or condominium can receive per disaster.

Update

On Tuesday, September 24, 2013, the Committee adopted this legislation. Accordingly, the Committee recommends its adoption.

(For text of the bills Res No. 1808 and Res No. 1927, please see the Report of the Committee on Housing and Buildings for Res Nos. 1808 and 1927, respectively, printed in this voice-vote Resolution section of these Minutes)

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1708:)

Res. No. 1708

Resolution calling upon the United States Congress to enact and the President to sign the Flood Victim Premium Relief Act of 2013.

By The Speaker (Council Member Quinn) and Council Members Recchia, Foster, Chin, Fidler, Garodnick, Gonzalez, Ignizio, Levin, Mendez, Nelson, Ulrich, Van Bramer, Oddo, Brewer, Cabrera, Comrie, Dromm, Eugene, Ferreras, Gennaro, Gentile, James, Koo, Koslowitz, Lander, Palma, Richards, Rose, Vann, Williams, Lappin, Vallone, Barron, Jackson, Mark-Viverito, Dickens and Greenfield.

Whereas, In 1968 Congress passed, and has subsequently amended, the National Flood Insurance Act, which created a National Flood Insurance Program (NFIP) that provides flood insurance to homeowners, renters, and businesses in communities that participate in the NFIP by agreeing to adopt and enforce certain federally mandated requirements; and

Whereas, The NFIP was most recently extended and amended by the Biggert-Waters Flood Insurance Reform Act, which was signed into law by President Obama on July 6, 2012; and

Whereas, Under the NFIP, FEMA maps high-risk flood zones, labeling them as “A” if they face a 1% annual flood risk (i.e., are in the 100 year flood plain), “V” if they could be subjected to waves over three feet during such floods, and, on upcoming map revisions, as “Coastal A” for areas that would be subjected to waves of one-and-a-half to three feet; and

Whereas, Under many circumstances, such as when a building is backed by a federally regulated or insured loan, homeowners, renters, and businesses in the these flood zones are required to purchase flood insurance, the cost of which reflects the risk to their property based on the zone in which they are mapped, the elevation of the building relative to base flood elevation, and any flood mitigation property owners have undertaken; and

Whereas, On October 29 and 30 of 2012, Superstorm Sandy struck the East Coast of the United States, with its center passing over New Jersey around 8pm on the 29th; and

Whereas, Sandy’s devastation to the City of New York from high winds and a record tidal surge was catastrophic, causing 43 deaths in the City, destroying or extensively damaging thousands of homes and businesses, flooding tunnels and knocking out electricity and infrastructure, knocking down over 8,000 trees and over 1,200 branches, some of which also caused damage to property; and

Whereas, Through various programs, FEMA, other federal agencies, the city and state, and the private sector have responded with a massive cleanup effort, cleaning out flooded homes, relocating displaced persons into temporary housing, covering other storm-related personal costs, and cleaning and rebuilding infrastructure; and

Whereas, Well before Sandy, FEMA was working with the city to update the city’s Flood Insurance Rate Maps (FIRM), which were last updated in 1983 and were based on data that is now out of date; and

Whereas, After Sandy, FEMA released Advisory Base Flood Elevation maps (ABFE) based on the analysis that they had conducted to date for their efforts to generate new FIRMs for the City of New York; and

Whereas, Such ABFEs will likely be substantially similar to the updated FIRMs expected to be released in the next two years, and they indicate that the number of structures that will be in the high-risk flood zones could more than double when the updated FIRMs are released; and

Whereas, To the degree that the FIRMs reflect the ABFE maps, many more homeowners and business owners will be required to purchase flood insurance, and many others will require a greater amount of insurance than before if they are now in a V instead of an A zone or if their base flood elevation changes; and

Whereas, In the past, insurance premiums for many policy holders were lower than the amount that would be required based solely on their building’s flood risk because, under many circumstances, FEMA granted premium reductions; and

Whereas, Some structures benefitted from “grandfathered” rates if they were built prior to 1975, were built before their community received a FIRM, or were built to meet an existing FIRM but would no longer be compliant because a new FIRM was issued that changed their flood zone; and

Whereas, The Biggert-Waters Flood Insurance Reform Act of 2012 phases out these premium reductions and ends grandfathered rates for most residents that live in flood zones, including persons that receive federal money to rebuild after a disaster, substantially improve their property, purchase properties after July 6, 2012, have a change in risk to a property such as from a change in flood zone category due to a new or revised FIRM, or that have allowed their insurance policy to lapse and need to repurchase insurance; and

Whereas, When triggered, the premiums for property owners who held flood insurance and benefited from a premium reduction or a grandfathered rate will rise by 20% per year for five years until they meet their risk-based premium; and

Whereas, Properties that are at or below base flood elevation for the zone they are in could face substantially higher insurance premiums due to these changes in the law; and

Whereas, The Flood Victim Premium Relief Act of 2013 (the Act) would extend the phase-in of the new insurance premiums that would go into effect after July 6, 2012, for “covered properties” from five to eight years, with the rate increasing by 5% for the first four years and 20% for the next four years; and

Whereas, The Act defines “covered properties” as residential properties in areas where a major disaster has been declared under the Robert T. Stafford Disaster Relief and Emergency Act, and where updated flood insurance maps take effect in the two years following such a declaration, or, at the time of enactment of the Act, the property is eligible for preferred risk rate method premiums, or had been eligible for such premiums at any time in the previous 12 months before an event occurred for which an emergency declaration is declared; is owned by the same person as when the disaster event occurred; and is and has been the owner’s primary residence; and

Whereas, When FEMA releases updated FIRMs for the City of New York in about two years, a substantial number of homeowners will face sometimes significantly higher insurance premiums due to being in a higher-risk zone or to being placed in a high-risk zone for the first time; and

Whereas, The Act would thereby give homeowners more time to seek funding for and to take actions that would mitigate against future floods, thereby increasing the safety of their homes while lowering their new, unadjusted, risk-based premiums; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to enact and the President to sign the Flood Victim Premium Relief Act of 2013.

ERIK MARTIN DILAN Chairperson; GALE A. BREWER, LEWIS A. FIDLER, JAMES F. GENNARO, ROBERT JACKSON, MELISSA MARK-VIVERITO, ROSIE MENDEZ, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, September 24, 2013.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Comrie) called for a voice vote. Hearing no objections, President Pro Tempore (Council Member Comrie) declared the Resolution to be adopted.

Adopted unanimously by the Council by voice-vote.

Report for voice-vote Res. No. 1808

Report of the Committee on Housing and Buildings in favor of approving a Resolution calling upon the United States Congress to amend the Biggert-Waters Flood Insurance Reform Act of 2012.

The Committee on Housing and Buildings, to which the annexed resolution was referred on June 12, 2013 (Minutes, page 1964), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Res No. 1708 printed in the voice-vote section of these Minutes).

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1808:)

Res. No. 1808

Resolution calling upon the United States Congress to amend the Biggert-Waters Flood Insurance Reform Act of 2012.

By Council Member Ulrich, the Speaker (Council Member Quinn), Chin, Brewer, Barron, Jackson, Mark-Viverito, Williams, Dickens, Gennaro, Greenfield and Van Bramer.

Whereas, In 1968, Congress passed the National Flood Insurance Act, which created the National Flood Insurance Program (“NFIP”) to provide a means for property owners in flood-prone areas to financially protect themselves from floods; and

Whereas, Homeowners, renters and businesses in NFIP participating communities are able to, and in many cases required to, purchase flood insurance; and

Whereas, In order to participate in NFIP, communities must adopt and enforce federally mandated requirements, including the adoption of Flood Insurance Rate Maps (“FIRMs”); and

Whereas, FIRMs are the official maps, created by the Federal Emergency Management Agency (“FEMA”), used by a community to identify areas most prone to flooding and to set insurance rates and requirements accordingly; and

Whereas, Since its inception, the NFIP has offered lower premium rates to property owners under certain circumstances; and

Whereas, Properties with buildings that were constructed before their community adopted its first FIRM or that were in compliance with an existing FIRM

at the time the building was constructed, but that now have an increased flood risk according to a current FIRM, formerly benefited from subsidized rates; and

Whereas, On July 6, 2012, President Obama signed into law the Biggert-Waters Flood Insurance Reform Act of 2012 (the “Act”), which reauthorizes the NFIP through September 30, 2017, and significantly alters the way flood insurance premium rates are calculated; and

Whereas, The Act requires premium rates for all properties located in NFIP participating areas to accurately reflect the current actuarial risk to such property from floods; and

Whereas, Eventually, the Act will eliminate all subsidies and grandfathered rates, commonly referred to as Pre-FIRM subsidies; and

Whereas, FEMA recently released Preliminary Work Maps which are predictive of the new FIRMs expected to be adopted within the next two years; and

Whereas, The Preliminary Work Maps reflect current flood risk more accurately than the existing FIRMs, which were last updated in 2007; and

Whereas, According to the Preliminary Work Maps, the areas in the City at risk of flooding are expected to increase and the number of total properties in flood hazard areas is expected to nearly double from approximately 35,000 to 67,000 when the new FIRMs are adopted; and

Whereas, Under the Act, when FEMA adopts its new FIRMs, properties that had been receiving subsidized rates will now be required to pay actuarial-based premium rates that will be phased in over a five-year period at 20 percent per year, while newly mapped properties may be required to pay actuarial-based premium rates immediately; and

Whereas, The NYC Special Initiative for Rebuilding and Resiliency, an initiative created after Superstorm Sandy to consider how the City can be better protected against future natural disasters, estimates that premiums for buildings currently located in flood zones could increase by 2 to 10 times their current cost under a new FIRM; and

Whereas, For example, once the new premiums apply, a homeowner currently paying a premium of \$1,410 per year whose home is four feet below the Base Flood Elevation (“BFE”), according to the new FIRM, would have an actuarial premium of \$9,500 per year; and

Whereas, Under the five-year phase-in currently being proposed, the homeowner in that example would have to pay an annual increase of \$1,618 per year until \$9,500 is reached; and

Whereas, The Act requires that the Government Accountability Office (“GAO”) conduct a study and report to Congress on Pre-FIRM structures and the options for eliminating the subsidy to such structures; and

Whereas, The GAO study has been delayed for as much as two years; and

Whereas, When the study is released, it may show that the elimination of Pre-FIRM subsidies was unnecessary and overly burdensome on the poor and middle class; and

Whereas, At the conclusion of the GAO study, if the elimination of subsidies is found to be necessary, the Act should be amended to reduce the 20 percent premium rate increase per year the bill imposes as it will rapidly increase premiums for property owners; and

Whereas, Further, the Act would remove subsidized rates upon the lapse of a policy, purchase of a new policy or the sale of a property; and

Whereas, For the approximately 32,000 properties that find themselves in the floodplain for the first time when the new FIRMs are adopted, actuarial rates may be effective immediately, as entering into a new policy after such date triggers actuarial rates; and

Whereas, The Act should be amended to allow newly mapped properties to participate in the phase-in of the actuarial rate without requiring them to purchase a preferred-risk policy prior to the adoption of the final FIRM; and

Whereas, For buyers wishing to purchase a property in an NFIP participating area after the new FIRMs are adopted, actuarial rates will be effective immediately even if that home would have been eligible for a gradual phase in prior to its sale; and

Whereas, The Act should be amended to allow for current subsidized rates to continue upon the sale of a property, allowing the new buyer to participate in the phase-in of the actuarial rate, as prospective buyers will likely be deterred from purchasing homes in flood-prone areas when they factor in the monthly cost of flood insurance at an actuarial rate; and

Whereas, The NFIP should allow for higher deductibles; and

Whereas, Current baseline deductibles start at \$1,000 and \$2,000 depending on whether the building is a Post-FIRM or Pre-FIRM construction, respectively; and

Whereas, Allowing the deductible for 1 to 4 family homes to be raised to \$4,000 could reduce premium rates up to 15 percent, and raising the deductible for 1 to 4 family homes to \$50,000, as is permitted for other residential and non-residential buildings, could reduce their premiums rates up to 43.5 percent; and

Whereas, The NFIP should reduce premiums for partial mitigation and building type; and

Whereas, Currently, the only factors for determining flood premiums post-Biggert-Waters are the flood zone and the elevation of its lowest occupied floor relative to BFE; and

Whereas, Elevating a building or vacating the ground floor are cost-prohibitive or, in some cases, impossible with the majority of NYC’s building stock; and

Whereas, There are other factors which determine a building’s actual risk for flood loss including construction materials, foundation type and whether the mechanicals have been elevated; and

Whereas, NFIP should give owners credit for the actual risk-mitigating alterations they make to their buildings; and

Whereas, The NFIP should treat cooperatives the same as condominiums; and

Whereas, Currently, condominium associations are able to receive separate policies for each of its units, however, cooperatives are only able to receive one policy for the entire building, leaving NYC cooperatives under-insured; and

Whereas, Unless the Act is amended, it will undoubtedly have huge implications for coastal areas in NYC by reducing property values in coastal communities and imposing economic hardships on property owners; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to amend the Biggert-Waters Flood Insurance Reform Act of 2012.

ERIK MARTIN DILAN Chairperson; GALE A. BREWER, LEWIS A. FIDLER, JAMES F. GENNARO, ROBERT JACKSON, MELISSA MARK-VIVERITO, ROSIE MENDEZ, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, September 24, 2013.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Comrie) called for a voice vote. Hearing no objections, President Pro Tempore (Council Member Comrie) declared the Resolution to be adopted.

Adopted unanimously by the Council by voice-vote.

Report for voice-vote Res. No. 1927

Report of the Committee on Housing and Buildings in favor of approving a Resolution calling upon the United States Congress to enact and the President to sign H.2887/S.1480, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide assistance for condominiums and housing cooperatives damaged by a major disaster, and for other purposes.

The Committee on Housing and Buildings, to which the annexed resolution was referred on September 12, 2013 (Minutes, page 3463), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Res No. 1708 printed in the voice-vote section of these Minutes).

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1927:)

Res. No. 1927

Resolution calling upon the United States Congress to enact and the President to sign H.2887/S.1480, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide assistance for condominiums and housing cooperatives damaged by a major disaster, and for other purposes.

By Council Members Vallone, Jr., Brewer, Chin, Eugene, Fidler, Gentile, Jackson, James, Koo, Koppell, Mendez, Palma, Richards, Wills, Mark-Viverito, Williams, Barron, Dickens, Gennaro, Greenfield, Van Bramer, Rodriguez and Ulrich.

Whereas, Over half a million New York City families reside in cooperatives or condominiums; and

Whereas, Cooperatives and condominiums were among the residences affected by Superstorm Sandy in October 2012; and

Whereas, In some cases, cooperatives and condominiums suffered hundreds of thousands of dollars’ worth of damages;

Whereas, Under current Federal Emergency Management Agency (“FEMA”) policy, cooperative and condominium associations are considered business entities, making them ineligible for the types of federal disaster assistance available to single-family homes; and

Whereas, Due to their classification as business entities, cooperative and condominium associations are not eligible for grants to make expensive repairs to common areas such as utility rooms, lobbies, and roofs; and

Whereas, Without this critically needed assistance, cooperative and condominium associations are being forced to take on loans, spend significant

portions of their reserves, or in some cases, impose assessments on individual homeowners to cover the cost of repairs; and

Whereas, H.2887/S.1480, introduced in 2013 by Rep. Israel (D-NY) and Sen. Schumer (D-NY) respectively, would amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the law that created FEMA in 1988, to provide cooperative and condominium associations with the same federal disaster assistance available to single-family homeowners; and

Whereas, Further, the bill would allow the President to regulate the maximum amount of federal disaster assistance that an association for a cooperative or condominium can receive per disaster; and

Whereas, Cooperative and condominium homeowners should be entitled to the same federal disaster assistance available to single-family homeowners; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to enact and the President to sign H.2887/S.1480, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide assistance for condominiums and housing cooperatives damaged by a major disaster, and for other purposes.

ERIK MARTIN DILAN Chairperson; GALE A. BREWER, LEWIS A. FIDLER, JAMES F. GENNARO, ROBERT JACKSON, MELISSA MARK-VIVERITO, ROSIE MENDEZ, JUMAANE D. WILLIAMS, ERIC A. ULRICH, JAMES S. ODDO; Committee on Housing and Buildings, September 24, 2013.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Comrie) called for a voice vote. Hearing no objections, President Pro Tempore (Council Member Comrie) declared the Resolution to be adopted.

Adopted unanimously by the Council by voice-vote.

INTRODUCTION AND READING OF BILLS

Res. No. 1930

Resolution calling upon the New York State Legislature to pass and the Governor to sign A.4793/S.1930, legislation excluding Social Security payments and supplemental Social Security income from the definition of "income" for the purposes of determining eligibility under the senior citizen rent increase exemption (SCRIE) program.

By Council Members Brewer, Barron, Chin, Dickens, Dromm, Fidler, Gentile, James, King, Koo, Koppell, Koslowitz, Lander, Mendez, Palma, Reyna, Richards, Wills, Rodriguez, Halloran and Ulrich.

Whereas, New York State law allows the City to provide low-income seniors assistance with rising housing costs through the senior citizen rent increase exemption (SCRIE) program; and

Whereas, Under the SCRIE program, rent increases are limited for qualifying seniors and in return, participating landlords receive a property tax abatement credit equal to the amount of the rent forgiven; and

Whereas, Tenants in rent controlled or rent stabilized apartments are eligible for the SCRIE program if they are at least 62 years old, have a total household income that does not exceed \$29,000, and if the maximum rent or legal regulated rent is increased to a level that exceeds one-third of their household's income; and

Whereas, As the rate of inflation continues to outpace increases in Social Security benefits, the cost of living has risen for many seniors without a proportional increase in their income levels; and

Whereas, Excluding Social Security income from the calculation for SCRIE eligibility would allow more seniors to enroll in the program, enabling those seniors to allocate more of their income toward living expenses such as food and prescription drugs; and

Whereas, In January 2013, New York State Assembly Member Matthew Titone and New York State Senator Joseph Addabo, Jr. introduced A.4793 and S. 1930, respectively, legislation that would amend State Real Property Tax Law to change the definition of "income" for purposes of eligibility in the SCRIE program; and

Whereas, A.4793 and S.1930 would make 100 percent of Social Security income exempt from calculation for eligibility purposes under the SCRIE program; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign A.476./S.1930, legislation excluding Social Security payments and supplemental security income from the definition of "income" for the purposes of determining eligibility under the senior citizen rent increase exemption (SCRIE) program.

Referred to the Committee on Aging.

Res. No. 1931

Resolution calling upon the New York State Unified Court System to require the Integrated Domestic Violence Courts in New York City to issue regular reports on batterer intervention programs.

By Council Members Cabrera, Barron, Brewer, Chin, Fidler, Gentile, James, Koo, Koppell, Mendez, Palma, Wills, Rodriguez and Halloran.

Whereas, The Integrated Domestic Violence (IDV) courts in New York State are designed to have a family's multiple cases come before a single judge; and

Whereas, IDV courts provide judicial monitoring, access to advocacy and services, and close communication with outside agencies and programs; and

Whereas, These courts help to ensure consistency in judicial orders, which allows the court to respond on a particularized basis to each family's situation; and

Whereas, Although there are several possible ways to enter a batterer program, one of the more common is upon order from a court; and

Whereas, However, when batterers go through court-ordered programs, there is currently no readily accessible public record of outcomes to determine if there are identifiable changes in the behavior patterns of batterers and whether the programs are successful; and

Whereas, It is important batterer programs address the substantive issues behind domestic violence, and not simply act as a procedural requirement that the batterer must fulfill; and **Whereas**, Reporting on the placement in and outcomes of batterer intervention programs would help researchers and advocates to measure the success of the programs and trends in changing the behavior of batterers; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Unified Court System to require the Integrated Domestic Violence Courts in New York City to issue regular reports on batterer intervention programs.

Referred to the Committee on Women's Issues.

Res. No. 1932

Resolution calling upon the Bronx District Attorney's Office to alter its prosecution policy for domestic violence cases.

By Council Members Cabrera, Barron, Chin, James, Koo, Palma, Wills and Rodriguez.

Whereas, Integrated Domestic Violence (IDV) Courts are designed to have a family's multiple cases, in which domestic violence is an underlying issue, come before a single judge; and

Whereas, This method helps minimize the time, cost, and confusion for victims of domestic violence and their families, and helps enhance overall services; and

Whereas, IDV Courts are responsible for improving the flow of information to both litigants and service providers; and

Whereas, The Bronx County District Attorney currently relies on a first-party complaint policy, which requires a domestic violence victim to sign on to a case on their own behalf prior to arraignment; and

Whereas, This requirement may not be ideal for cases involving domestic violence as the issue is deeper than the violence itself; and

Whereas, Domestic violence cases often revolve around power and control so the first-party complaint policy may not account for many victims who may feel too threatened or powerless to come forward and complain on their own; and

Whereas, Such cases should be handled with specific rules and policies created for domestic violence circumstances; and

Whereas, All other district attorney's office in the city have a prosecution policy which prosecutes defendants regardless of whether or not the victim wishes to be involved with the case; and

Whereas, If the Bronx District Attorney's Office adopted such a prosecution policy, there would be an opportunity to prosecute a greater number of offenders, without placing any additional burden on the victims; and

Whereas, It is important for victims of domestic violence to remain unburdened during this process and this policy would help alleviate both financial and logistical burdens on the victim; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Bronx District Attorney's Office to alter its prosecution policy for domestic violence cases.

Referred to the Committee on Women's Issues.

Res. No. 1933

Resolution calling upon the New York State legislature to pass and the Governor to sign legislation to modify the existing reporting requirements for the Statewide Central Register of Child Abuse and Maltreatment and require identifying information when making a report of child abuse.

By Council Members Cabrera, Barron, Brewer, Eugene, James, King, Koo, Mendez, Palma and Rodriguez.

Whereas, The abuse or maltreatment of children is against the law and in New York State, Child Protective Services (“CPS”) within the Office of Family and Children Services (“OCFS”), is responsible for protecting children and preventing future harm; and

Whereas, The Child Protective Services Act of 1973 (Title 6 of State Social Services Law) established a Child Protective Service in each county in New York, each of which is required to investigate child abuse and maltreatment reports, to protect children under 18 years old from further abuse and maltreatment, and to provide rehabilitative services to children, parents and other family members involved; and

Whereas, One of the components of the Child Protective Services Act of 1973 is that OCFS maintain a Statewide Central Register of Child Abuse and Maltreatment (“SCR”); and

Whereas, The SCR receives telephone calls and faxes from individuals alleging child abuse and maltreatment within New York State and relays the information to the local Child Protective Service; and

Whereas, The SCR receives calls and faxes from two types of people; those who are required by law to report suspected cases of abuse, known as mandated reporters, and non-mandated reporters, which includes the general public; and

Whereas, According to OCFS, mandated reporters include, but are not limited to, medical and hospital personnel, school officials, social service workers, child care workers, residential care workers and volunteers, and law enforcement personnel; and

Whereas, Mandated reporters must fill out a signed written report called LDSS 2221A Report of Suspected Child Abuse or Maltreatment within 48 hours of making an oral report to the SCR; and

Whereas, Voluntary reporters, including but limited to, neighbors, relatives and concerned citizens also call the SCR to report suspected child abuse or maltreatment, however, they are not required to submit a written report and calls or faxes to the SCR may be anonymous; and

Whereas, In New York City, the Administration for Children’s Services (“ACS”) is the local Child Protective Service and is required to investigate when there is a report of suspected child abuse and maltreatment; and

Whereas, According to a 2008 survey by Public Advocate Betsy Gotbaum (“2008 survey”), perpetrators of domestic violence sometimes use the child abuse and maltreatment system as a way to continue to abuse their victim after they have been separated by falsely reporting instances of child abuse to the SCR; and

Whereas, The 2008 survey states that perpetrators of domestic violence may be motivated to make false claims to the SCR to “gain leverage in an upcoming custody battle and punishment for leaving;” and

Whereas, The reports, regardless if they are true or false, may trigger an investigation by ACS, which can be disruptive to the family; and

Whereas, Falsely reporting child abuse to the SCR is a class A misdemeanor under Article § 240.50 of the Penal Law and if ACS discovers a false report was made, they may refer the case to the appropriate District Attorney’s Office; and

Whereas, According to the 2008 survey, 95 percent of domestic violence service providers surveyed reported that they have never had a perpetrator prosecuted for making a false report; and

Whereas, Additionally, 72 percent of respondents reported that they have had at least one case in which the abuser falsely reported the survivor to the SCR for child abuse and 67 percent reported that they have had at least one case where the abuser repeatedly reported abuse to the SCR; and

Whereas, False reporting of child abuse can make it even more difficult for survivors of domestic violence to rebuild their lives after leaving their abusers and needlessly expends resources that could be better spent; and

Whereas, Therefore, the State should require identifying information when making a report of child abuse in all cases so if a false report is made the caller making the false claim can be more easily prosecuted; and

Whereas, This change would also allow OCFS to better screen reports made to the SCR and ensure that abusers are not manipulating the call system to continue to abuse their victim; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State legislature to pass and the Governor to sign legislation to modify the existing reporting requirements for the Statewide Central Register of Child Abuse and Maltreatment and require identifying information when making a report of child abuse.

Referred to the Committee on General Welfare.

Res. No. 1934

Resolution calling on the New York State Legislature to pass and the Governor to sign S.7851, the Survivor’s Accessing Fair and Equitable Housing Act.

By Council Members Cabrera, Eugene, Jackson, James, Koo, Palma, Wills and Rodriguez.

Whereas, The New York City Housing Authority (“NYCHA”) is a public housing authority with 334 developments, 2,596 buildings, and 178,914 public housing units, making it the largest public housing provider in North America; and

Whereas, As of January 2013, the vacancy rate of its apartments available for occupancy was less than 1 percent; and

Whereas, There are currently 167,353 families on the waiting list for public housing; and

Whereas, Some families wait months or, in some cases, years to enter public housing; and

Whereas, NYCHA has adopted a priority system which it uses to rank applicants and provide shorter wait periods for housing to several groups including victims of domestic violence; and

Whereas, According to the Mayor’s Office to Combat Domestic Violence, in 2012, police responded to 263,307 domestic violence incidents citywide; and

Whereas, Domestic violence is one of the most chronically underreported crimes; and

Whereas, According to the National Coalition Against Domestic Violence (“NCADV”), approximately one-quarter of all physical assaults and one-fifth of all rapes perpetuated against females by intimate partners are reported to the police; and

Whereas, Currently, victims of domestic violence seeking priority on NYCHA’s waiting list must provide NYCHA with two pieces of official documentation, such as a police report, hospital admission letter or order of protection, arising out of two separate incidents of abuse; and

Whereas, NYCHA’s requirements to apply for priority housing may force survivors of domestic violence to put themselves in additional and unnecessary danger in order to obtain necessary housing; and

Whereas, S.7851, the Survivor’s Accessing Fair and Equitable Housing Act (“the Act”), would allow victims of domestic violence to provide alternative documentation to apply for priority public housing; and

Whereas, The Act would require that NYCHA establish an additional application for victims of domestic violence, the new application would be based on a modified version of the No Violence Again emergency housing form used for city temporary shelters, supplemented by sworn attestations from the priority applicant and a qualified domestic violence service provider; and

Whereas, The alternative application would not require survivors of domestic violence to subject themselves to further abuse in order to access safe and affordable housing in the City; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign S.7851, the Survivor’s Accessing Fair and Equitable Housing Act.

Referred to the Committee on Public Housing.

Res. No. 1935

Resolution urging the United States Congress to restore full funding to the New York City Housing Authority’s Section 8 Leased Housing Program.

By Council Members Cabrera, Barron, Brewer, Chin, Dickens, Eugene, Fidler, Jackson, James, King, Koo, Lander, Mendez, Palma, Wills and Rodriguez.

Whereas, In August 2011, President Obama signed into law the Budget Control Act, which created the United States Congress Joint Select Committee on Deficit Reduction (“the Committee”); and

Whereas, The Committee, comprised of twelve members of Congress, six from the House of Representatives and six from the Senate, was tasked with issuing a recommendation for at least \$1.5 trillion in deficit reduction steps to be undertaken over a ten-year period; and

Whereas, If the Committee failed to come to an agreement by November 2011, automatic, across-the-board spending cuts, known as sequestration, would go into effect; and

Whereas, The Committee was unable to settle on specific budget reduction measures in the required timeframe thereby triggering the implementation of sequestration in March 2013 which has affected government agencies, including housing authorities such as the New York City Housing Authority (“NYCHA”), which will see cuts totaling \$1.2 trillion over the next ten years; and

Whereas, NYCHA is the largest public housing provider in North America, with 334 developments, 2,596 buildings, and 178,914 public housing units; and

Whereas, Sequestration will reduce NYCHA’s 2013 federal subsidies by over \$200 million; and

Whereas, NYCHA will receive \$78 million less for their Section 8 Leased Housing (“Section 8”) program; and

Whereas, The Section 8 program is an affordable housing option for many families, it enables voucher holders to rent housing in neighborhoods of their choice; and

Whereas, The Section 8 program provides housing assistance to more than 225,000 New Yorkers in over 90,000 apartments citywide; and

Whereas, Currently, the average income of families with Section 8 vouchers is \$15,305 and their average monthly out-of-pocket rent is \$350 per month; and

Whereas, NYCHA plans to address cuts to its Section 8 program by not issuing

any new vouchers, accumulating savings from attrition, not increasing payments upon renewals, requiring cost neutral transfers and exhausting the program's existing reserves; and

Whereas, After taking the aforementioned steps, NYCHA will still be left with a \$14 million shortfall in its Section 8 program; and

Whereas, Due to this shortfall, NYCHA may not have funds to pay Section 8 obligations beginning in December 2013, which could result in the permanent removal of 1,200 families from the program; and

Whereas, Currently, NYCHA pays 110 percent of the payment standard, the maximum monthly housing assistance NYCHA will pay to a landlord who rents to a family with a Section 8 voucher, for about 10,000 voucher holders, with the rest at no less than 90 percent; and

Whereas, To avoid removing any families from the Section 8 program, NYCHA plans to request from the U.S. Department of Housing and Urban Development ("HUD") approval to limit all Section 8 vouchers to the 90 percent payment standard; and

Whereas, If HUD approves NYCHA's request, a reduction in the payment standard would raise each family's portion of their rent by an average of \$57 per month, raising annual housing costs by at least \$684; and

Whereas, Rent increases would impose an enormous burden on already struggling low-income families; now, therefore, be it

Resolved, That the Council of the City of New York urges the United States Congress to restore full funding to the New York City Housing Authority's Section 8 Leased Housing Program.

Referred to the Committee on Public Housing.

Res. No. 1936

Resolution calling on the New York State Assembly to pass and the Governor to sign the Michael Sandy Act, which limits the admissibility of evidence of a defendant and victim falling under the same protected category in hate crime cases.

By Council Members Dromm, Brewer, Chin, Fidler, James, Lander, Mendez, Palma and Rodriguez.

Whereas, Hate crimes continue to plague New York City and State as evidenced by the May 2013 anti-gay murder of Marc Carson, who was shot at point-blank range as he was enjoying an evening in Manhattan with his friends; and

Whereas, According to the Hate Crime in New York State 2011 Annual Report released in October 2012 by the New York State Division of Criminal Justice Services ("DCJS"), there were 554 reported hate crime incidents in New York State during 2011; and

Whereas, Additionally, according to DCJS's report, the most frequently reported bias motivation for hate crimes against individuals in New York State in 2011 was against gay men, comprising 25.2%; and

Whereas, In 2000, New York State enacted the Hate Crimes Act of 2000, establishing that an individual commits a hate crime when he or she selects the victim based on the victim's actual or perceived race, color, national origin, ancestry, gender, religion, religious practice, disability or sexual orientation; and

Whereas, The Hate Crimes Act of 2000 is important in that it uses enhanced penalties to send a reassuring message to all other self-identified members of the impacted community; and

Whereas, The prosecution of anti-lesbian, gay, bisexual, and transgender ("LGBT") crimes poses its own set of challenges given the complex nature of sexual orientation and society's understanding of it; and

Whereas, These challenges were highlighted in a 2007 trial in which, according to the *New York Times*, the defendants were accused of searching on a website for a gay man to victimize, deciding upon Michael Sandy, luring him to an isolated location, then proceeding to beat and rob him, and ultimately chasing him into traffic on the Belt Parkway where he was fatally struck by a sports utility vehicle; and

Whereas, According to *New York Magazine*, a group of four men was charged with, and went on trial for, various offenses with hate crime enhancements since they had selected their victim based on his sexual orientation; and

Whereas, According to *New York Magazine*, the lawyer for Anthony Fortunato, one of the defendants, claimed that his client was gay, seemingly in an attempt to use his sexual orientation as a shield from a hate crime conviction; and

Whereas, Such evidence is irrelevant to a conviction under the Hate Crimes Act of 2000 and unduly confused jurors into thinking that Fortunato could not have targeted Michael Sandy if Fortunato himself was gay; and

Whereas, According to a 1996 study published by the American Psychological Association linking homophobia with homosexual arousal in that the negative view stems from the homophobe's guilt about his or her own feelings and struggle to suppress them, the perpetrator and the victim sharing the same sexual orientation can actually motivate the perpetrator to commit a hate crime; and

Whereas, Many jurors may not have sufficient knowledge of LGBT issues to understand that Fortunato's struggles with his own purported sexual orientation could have made him more likely to target Michael Sandy; and

Whereas, A.7549, also known as the Michael Sandy Act, currently pending in

the New York State Assembly, seeks to amend the criminal procedure law by prohibiting the admissibility of evidence used by defendants to show that they and the victim identify with the same protected category of the Hate Crimes Act; and

Whereas, The Michael Sandy Act prohibits such tactics while allowing the court to make exceptions through separate hearings out of earshot of the jury but only if the judge determines the information is absolutely necessary to evaluate the case; and

Whereas, Although suspects continue to be prosecuted for hate crimes, there is a fear that this dubious defense tactic will continue to be used unless the Michael Sandy Act is passed; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Assembly to pass and the Governor to sign the Michael Sandy Act, which limits the admissibility of evidence of a defendant and victim falling under the same protected category in hate crime cases.

Referred to the Committee on Fire and Criminal Justice Services.

Int. No. 1160

By Council Members Gennaro, Fidler, Koo, Richards and Rodriguez (by request of the Mayor).

A Local Law to amend the New York city charter, the administrative code of the city of New York, the New York city building code, and the New York city mechanical code, in relation to the New York city air pollution control code, and to repeal section 24-117 of the administrative code of the city of New York, relating to refuse burning equipment, section 24-119 of such code, relating to refuse compacting systems, subchapter 5 of chapter 1 of title 24 of such code, relating to fee schedules, section 24-144 of such code, relating to sulfur compounds, section 24-150 of such code, relating to smoking in passenger elevators, section 24-154 of such code, relating to environmental ratings, sections 24-179, 24-181, 24-182, 24-184, 24-185, 24-186, 24-187 and 24-188 of such code, relating to the powers and procedures of the environmental control board, including procedures for filing answers, citizens complaints, default proceedings, hearing officer decisions, board decisions, and compliance with board decisions, and subdivision (f) of section 24-190 of such code, relating to failure to pay civil penalties.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 1049-a of the New York city charter, as amended by vote of the electors of the city of New York at a general election held on November 2, 2010, is amended to read as follows:

a. There shall be in the office of administrative trials and hearings an environmental control board consisting of the commissioner of environmental protection, the commissioner of sanitation, the commissioner of buildings, the commissioner of health and mental hygiene, the police commissioner, the fire commissioner and the chief administrative law judge of the office of administrative trials and hearings, who shall be chair, all of whom shall serve on the board without compensation and all of whom shall have the power to exercise or delegate any of their functions, powers and duties as members of the board, and six persons to be appointed by the mayor, with the advice and consent of the city council, who are not otherwise employed by the city, one to be possessed of a broad general background and experience in the field of air pollution control, one with such background and experience in the field of water pollution control, one with such background and experience in the field of noise pollution control, one with such background and experience in the real estate field, one with such background and experience in the business community, and one member of the public, and who shall serve for four-year terms. Such members shall be compensated at a rate that may be specified by the chair and approved by the mayor. Within the board's appropriation, the chair may appoint an executive director, subject to the approval of the board, and such hearing officers, including non-salaried hearing officers, and other employees as the chair may from time to time find necessary for the proper performance of the board's duties. *The board shall be convened by the chairperson or in his or her absence a deputy commissioner or at the request of any three members thereof. Five members of the board, at least two of whom shall not be city officials, shall constitute a quorum.*

§ 2. Title 16 of the administrative code of the city of New York is amended by adding a new section 16-120.2 to read as follows:

§ 16-120.2 *Refuse compacting systems; multiple dwellings after May twentieth, nineteen hundred sixty-eight.*

(a) *All multiple dwellings erected after May twentieth, nineteen hundred sixty-eight that are four or more stories in height and occupied by twelve or more dwelling units, or that are "class B" multiple dwellings as defined by the multiple dwelling law shall be provided with a refuse compacting system constructed in conformity with all applicable laws and rules.*

(b) *On and after July first, two thousand fourteen, any refuse compacting system that is required to be installed in a multiple dwelling pursuant to subdivision (a) of this section shall be utilized to compact all refuse that is not required to be source separated for other purposes pursuant to any provision of this title or any rules promulgated by the department in such multiple dwelling before such refuse is placed outside for collection by the department. Such refuse compacting system*

shall be maintained in good working condition and operated in accordance with the rules of the department and in conformity with all other applicable laws and rules.

(c) Any person who violates the requirements of this section shall be liable for a civil penalty as follows: (1) two hundred fifty dollars for a first violation; (2) five hundred dollars for a second violation; and (3) one thousand dollars for a third and subsequent violation within a twelve month period. For purposes of this section, the second and any subsequent violation shall only occur after notice of the first violation has been properly served and an opportunity to cure such violation has been provided to the violator, provided that such opportunity to cure shall not exceed thirty days. Such penalties may be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board.

§ 3. Section 16-509 of the administrative code of the city of New York is amended by adding a new subdivision e to read as follows:

e. The commission may refuse to issue a license or registration to an applicant that has failed to demonstrate that such applicant will meet the requirements of section 24-163.12 of the code, or any rule promulgated pursuant thereto, in the performance of such license or registration.

§ 4. Subdivision a of section 16-513 of the administrative code of the city of New York, as added by local law number 42 for the year 1996, is amended to read as follows:

a. In addition to the penalties provided in section 16-515 of this chapter, the commission may, after due notice and opportunity to be heard, revoke or suspend a license or registration issued pursuant to the provisions of this chapter when the registrant or licensee and/or its principals, employees and/or agents: (i) have been found to be in violation of this chapter or any rules promulgated pursuant thereto; (ii) have been found by a court or administrative tribunal of competent jurisdiction to have violated: (A) any provision of section 16-119 of this code, or any rule promulgated pursuant thereto, relating to illegal dumping, (B) any provision of section 16-120.1 of this code, or any rule promulgated pursuant thereto, relating to the disposal of regulated medical waste and other medical waste or (C) any provision of section 16-117.1 of this code, or any rule promulgated pursuant thereto, relating to the transportation and disposal of waste containing asbestos; (iii) has repeatedly failed to obey lawful orders of any person authorized by section 16-517 of this chapter to enforce the provisions hereof; (iv) has failed to pay, within the time specified by a court, the department of consumer affairs or an administrative tribunal of competent jurisdiction, any fines or civil penalties imposed pursuant to this chapter or the rules promulgated pursuant thereto; (v) has been found in persistent or substantial violation of any rule promulgated by the commission pursuant to section 16-306 of this code or by the commissioner of consumer affairs pursuant to section 16-306 or former subchapter eighteen of title twenty of this code; (vi) has been found in persistent or substantial violation of any city, state, or federal law, rule or regulation regarding the handling of trade waste, or any laws prohibiting deceptive, unfair, or unconscionable trade practices; (vii) whenever, in relation to an investigation conducted pursuant to this chapter, the commission determines, after consideration of the factors set forth in subdivision a of section 16-509 of this code, that the licensee or registrant as a trade waste broker lacks good character, honesty and integrity; (viii) whenever there has been any false statement or any misrepresentation as to a material fact in the application or accompanying papers upon which the issuance of such license or registration was based; [or] (ix) whenever the licensee or registrant has failed to notify the commission as required by subdivision b of section 16-507 or subdivision c of section 16-508 of this chapter of any change in the ownership interest of the business or other material change in the information required on the application for such license or registration, or of the arrest or criminal conviction of such licensee or registrant or any of his or her principals, employees and/or agents of which the licensee had knowledge or should have known; or (x) whenever the licensee or registrant has been found by the commission or a court or administrative tribunal of competent jurisdiction to be in violation of the provisions of section 24-163.12 of the code, or any rule promulgated pursuant thereto.

§ 5. Subchapter 1 of chapter 1 of title 24 of the administrative code of the city of New York, section 24-102 and subdivision 18 of section 24-104 as amended by local law number 39 for the year 1989 and subdivision 48 of section 24-104 as amended by local law number 22 for the year 2002, is amended to read as follows:

SUBCHAPTER 1

SHORT TITLE, POLICY, AND DEFINITIONS

§ 24-101 Short title. [chapter] Chapter one of this title of the code of the city of New York shall be known and may be cited as the "New York city air pollution control code".

§ 24-102 Declaration of policy. It is hereby declared to be the public policy of the city to preserve, protect and improve the air [resources] quality of the city so as to promote health, safety and welfare, prevent injury to human, plant and animal life and property, foster the comfort and convenience of its inhabitants and[, to the greatest degree practicable,] facilitate the enjoyment of the natural attractions of the city. It is the public policy of the city that every person is entitled to air that is not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the emission into the open air of any harmful or objectionable substance, including but not limited to smoke, soot, fly ash, dust, fumes, gas, vapors, odors or any products of combustion or incomplete combustion resulting from the use of fuel burning equipment or refuse burning equipment is a menace to the health, welfare and comfort of the people of the city and a cause of extensive damage to property. For the purpose of controlling and reducing air pollution, it is hereby declared to be the policy of the city to actively regulate and eliminate such emissions. The necessity for legislation by the enactment of the provisions of this chapter is hereby declared as

a matter of legislative determination. This code shall be liberally construed so as to effectuate the purposes described in this section. Nothing herein shall be construed to abridge the emergency powers of the board of health of the department of health and mental hygiene or the right of such department to engage in any of its necessary or proper activities.

§ 24-104 Definitions. When used in the New York city air pollution control code:

(1) Air means all the air available for human, animal or plant respiration.

(2) Air contaminant means any [particulate matter] particulates or any gas or any combination thereof in the open air, other than uncombined water [or air].

[(2)] (3) Air contaminant detector means a device or combination of devices [which] that cause audible and/or visible signals in the presence of an air contaminant of a particular concentration, density or opacity.

[(3)] (4) Air contaminant recorder means an apparatus [which] that produces a record of the time, duration, concentration and density or opacity of an air contaminant.

[(4)] (5) Air pollution means the presence in the open air of one or more contaminants in quantities, of characteristics and of a duration that are or may be injurious to human, animal or plant life or to property or that unreasonably interfere with the comfortable enjoyment of life and property.

(6) Alteration means any modification or change of the design, capacity, process or arrangement, or any increase in the connected load of equipment or any apparatus [which] that will affect the kind [or amount] of air contaminant emitted or increase the amount of an air contaminant emitted. Alteration does not include replacement or repair of [wornout] worn out or defective equipment.

[(5)] (7) Anthracite coal means [the current definition of] anthracite coal as classified by the [American society for testing and materials] ASTM standard D388-12.

[(6)] (8) Apparatus means any device [which] that prevents, controls, detects, or records the emission of any air contaminant from fuel burning equipment.

[(7)] Bituminous coal means the current definition of bituminous coal and subbituminous coal as classified by the American society for testing and materials.

(8) (9) Architectural coating means coating to be applied to stationary structures and their appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Adhesives and coatings applied in shop applications or to nonstationary structures such as airplanes, ships, boats, railcars, and automobiles are not considered architectural coatings for the purposes of this code.

(10) Biodiesel means a fuel, designated B100, that is composed exclusively of mono-alkyl esters of long chain fatty acids derived from feedstock and that meets the specifications of ASTM standard D6751-12.

(11) Bioheating fuel means a fuel comprised of biodiesel blended with petroleum heating oil that meets the specifications of ASTM standard D396-12, or other specifications as determined by the commissioner.

(12) Board means the environmental control board of the city of New York.

[(9)] (13) Boiler means equipment [which] that is used to heat water for the purpose of generating hot water and/or steam.

[(10)] Btu input means the quantity of heat generated by a fuel fed into a furnace under conditions of complete combustion, measured in British thermal units. Btu input includes sensible heat, calculated above sixty degrees F., available from materials introduced into the combustion zone.

(11) The hot water and/or steam generated by a boiler may be used for heating, processing, or generating power or for other purposes, including but not limited to, cooking and sanitation.

(14) British thermal unit (Btu) means the amount of energy needed to heat one pound of water by one degree Fahrenheit.

(15) Capacity rating means the fuel burning equipment manufacturer's guaranteed maximum [Btu] heat input rating in millions of Btu per hour, or the maximum four-hour average actual rate, whichever is higher.

[(12)] (16) Certificate of operation means [an operating, sulfur exemption, temporary operating, or temporary sulfur exemption certificate] a document issued by the department authorizing the operation of a specific piece of equipment or apparatus that may emit an air contaminant.

(17) Chain-driven commercial char broiler means a commercial char broiler that is a semi-enclosed cooking device with a mechanical chain that automatically moves food through the device.

[(13)] (18) Charter means the New York city charter[, including all of its amendments].

[(14)] (19) City means the city of New York.

[(15)] (20) City agency means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(21) Clean wood means wood or wood pellets that have not been painted, stained, or treated with any coating, glue or preservative.

(22) Cogeneration system means equipment for the simultaneous production of electricity and heat from a single fuel source, such as natural gas, biomass, waste heat, or oil. Cogeneration system is also known as a combined heat or power system.

(23) Combustion controller means an apparatus [which] that automatically and continually maintains the proper fuel to air ratio for the optimum combustion of fuel.

[(16)] (24) Combustion shutoff means an apparatus [which] *that* is designed to halt automatically a combustion process when proper combustion conditions are not being maintained.

[(17)] (25) *Commercial char broiler* means a device that consists primarily of a grated grill and a heat source and that is used to cook meat, including beef, lamb, pork, poultry, fish, and seafood, for human consumption at a food service establishment, as such term is defined in section 81.03 of the New York city health code.

(26) Commissioner means the commissioner of environmental protection.

[(18)] (27) Control apparatus means any device [which] *that* prevents or controls the emission of [any] *an* air contaminant.

[(19)] (28) *Cook stove* means any wood fired or anthracite coal fired appliance used primarily for cooking food for onsite consumption at a food service establishment, as such term is defined in section 81.03 of the New York city health code.

(29) *Demolition* means the complete or partial removal, razing, or dismantling of any exterior part of a building or structure.

(30) Department means the department of environmental protection.

[(20)] (31) Dust means solid [particulate matter which has] *particulates that* have been released into the [open] air by natural forces or by mechanical processes.

[(21)] (32) *Emergency generator* means an internal combustion engine that operates as a mechanical or electrical power source only when the usual source of power is unavailable.

(33) Emission means dispersion of an air contaminant into the open air of the city.

[(22)] (34) Emission rate potential means the rate in pounds per hour at which *an* air contaminant would be emitted to the open air in the absence of air pollution control facilities or other control measures. The emission rate potential for cyclic operations shall be determined by considering both the instantaneous emission potential and the total emission potential over the time period of the cycle.

[(23)] (35) Emission source means a point at which an emission occurs.

[(24)] (36) *Engine* means a motor designed to convert energy into useful mechanical motion.

(37) Environmental rating means a rating [indicated by the letters A, B, C or D in table 1, section 24-153 of the code] *as established in part two hundred twelve of title six of the New York codes, rules and regulations.*

[(25)] (38) Equipment means any device capable of causing the emission of an air contaminant into the open air, or any stack, conduit, flue, duct, vent or similar device connected or attached to, or serving such device.

[(26)] (39) Equipment used in a process means equipment (except refuse burning equipment or fuel burning equipment) used in any industrial, commercial, agricultural[or other], *or manufacturing* activity, [or in any operation, manufacture or treatment] in which chemical, biological or physical properties of materials are changed.

[(27)] (40) Excess air means the quantity of air [which] *that* exceeds the theoretical quantity of air required for complete combustion.

[(28)] (41) Exhaust [and] *or* ventilation source means a system [which] *that* removes [and] *or* transports *an* air contaminant to the exterior of a building or other structure.

[(29)] (42) *Experimental installation* means equipment not previously used or tested in the city, or equipment using fuel not regulated by this code or rules promulgated thereunder.

(43) *Fireplace* means a hearth and fire chamber or similar prepared place in which a fire may be made and which is built in conjunction with a chimney.

(44) *Flare* means an open or closed flame gas combustion device used for burning off unwanted gas or flammable gas. A flare may include some or all of the following components: the foundation, flare tip, structure support, burner, ignition, flare controls including air injection or steam injection systems, flame arrestors, knockout pots, piping and header systems.

(45) Fuel burning equipment means equipment, other than a motor vehicle, designed to burn oil, natural gas, or renewable fuel.

[(30)] (46) *Fuel oil grade no. 1* means a fuel oil meeting the definition of fuel oil grade no. 1 as classified by ASTM standard D396-12.

(47) *Fuel oil grade no. 2* means a fuel oil meeting the definition of fuel oil grade no. 2 as classified by ASTM standard D396-12.

(48) *Fuel oil grade no. 4* means a fuel oil meeting the definition of fuel oil grade no. 4 as classified by ASTM standard D396-12.

(49) *Fuel oil grade no. 6* means a fuel oil meeting the definition of fuel oil grade no. 6 as classified by ASTM standard D396-12.

(50) *Generator* means any internal combustion engine that operates as a mechanical or electrical power source.

(51) *Heat input* means the quantity of heat generated by fuel fed into equipment under conditions of complete combustion, measured in British thermal units. Heat input includes sensible heat, calculated above sixty degrees Fahrenheit, available from materials introduced into the combustion zone.

(52) *Horsepower* means a unit of power in the United States Customary System, equal to 745.7 watts or thirty-three thousand foot-pounds per minute.

(53) Installation means the placement, assemblage or construction of equipment or apparatus at the premises where the equipment or apparatus will be used, and includes all preparatory work at such premises.

[(31)] Major deficiency means a defect in the design and/or installation that may

cause the equipment to generate unnecessary air pollution.

(32) Minor deficiency means a defect in the design and/or installation that does not accomplish or provide the monitoring or maintenance capability required by the permit issued to install or alter the equipment.

[(33)] (54) *Kilowatt* means a unit of electrical power equal to one thousand watts.

(55) *Mobile food vending unit* shall have the same meaning as set forth in section 89.03 of the New York city health code.

(56) Motor vehicle means equipment [which] *that* is propelled by an engine in or upon which a person or material may be transported on the ground.

[(34)] (57) Odorous air contaminant means any air contaminant [which] *that* is released in sufficient concentrations to be detected by the human olfactory sense.

[(35)] (58) Open air means all the air available for human, animal, or plant respiration, but shall not include the air in equipment and private dwellings.

[(36)] (59) Open fire means any *outdoor fire or smoke producing process* wherein the products of combustion are emitted directly into open air and are not directed thereto through a stack, conduit, flue, duct, vent or similar device.

[(37)] (60) *Outdoor wood boiler* means a device designed to burn wood that is either located outdoors or is specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans, and is used to heat building space or water by means of gas or liquid heated in the device.

(61) Owner means and includes the owner [of the freehold] of the premises or lesser estate therein or mortgagee thereof, a lessee or an agent of any of the above persons, a lessee of the equipment or his or her agent, a tenant, operator, or any other person who has regular control of equipment or apparatus.

[(38)] (62) Particulate [matter means any liquid, other than water, or any solid which is or tends to be capable of becoming windblown or being suspended in air, or other gas or vapor which becomes a solid or liquid at standard conditions of thirty-two degrees F. and 14.7 psia. Particulate matter measured on a dry basis shall be comprised of all materials collected at two hundred fifty degrees F. on and prior to the dry filter medium which achieves an efficiency greater than 99.9 per cent for particles 0.3 microns in diameter based on dioctyl phthalate smoke] *means any air or gas-borne material, except water, that exists as a liquid or solid. The determination of the quantity of particulates present in a stack shall be determined in accordance with emission testing methods as determined by the commissioner by rule. As used in this code, particulate matter shall have the same meaning as particulates.*

[(39)] (63) *Peak shaving* means the practice of utilizing on-site generating capacity for use at a facility at the request of the primary electricity supplier, provided that peak shaving shall not include emergency generation when the usual sources of heat, power, and lighting are temporarily unavailable.

(64) Permissible emission rates means the maximum rate in *pounds per hour* (lbs./hr.) at which air [contaminant may] *contaminants are allowed to* be emitted to the open air.

[(40)] Permit means an installation or alteration permit.

(41) (65) Person means individual or partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.

[(42)] (66) *Portable* means (i) *designed to be and capable of being carried or moved from one location to another, and (ii) not kept at one location for more than twelve consecutive months. Mechanisms indicating that an object is designed to be and capable of being carried or moved from one location to another include, but are not limited to, wheels, skids, carrying handles or platforms.*

(67) Portable equipment means equipment designed to be transported from place to place for temporary operation[, other than a motor vehicle, or lawn mower, snowblower or other similar domestic, non-commercial equipment] *and to provide heat or hot water.*

[(43)] Process weight means total weight of the materials including solid fuels introduced into any specific process but excluding liquid and gaseous fuels and combustion air.

(44) Process weight per hour means process weight divided by the number of hours from the beginning of any specific process to the completion of the process, excluding any time during which the equipment used in the process is idle.

(45)] (68) *Portable generator* means any internal combustion engine whose uses may include, but are not limited to, the generation of electric power, designed to be and capable of being carried or moved from one location to another.

(69) Professional certification means certification by a professional engineer or registered architect who is licensed to practice engineering or architecture under section seven thousand two hundred two or seven thousand three hundred two of the education law.

[(46)] (70) *Professional engineer* means a person licensed and registered to practice the profession of engineering pursuant to the New York state education law.

(71) Refuse burning equipment means equipment designed to burn [waste material, garbage and refuse] *biological materials from hospitals or crematoriums, waste material burned for the purpose of energy generation, or such other material as may be designated by the department by rule.*

[(47)] Refuse compacting system means any machine or system of machines capable of reducing waste material and garbage by means other than burning. So that it reduces by a volume to be determined by the commissioner and is suitable for collection by the department.

(48) Refuse containerization system means any system for the disposal of waste material and garbage jointly approved as to specifications by the department of health and mental hygiene, the department of housing preservation and development and the

department pursuant to section 27-2021 of the code, which utilizes containers compatible with mechanical loading systems on vehicles operated for the collection of refuse.

(49)] (72) *Registered architect* is a person licensed and registered to practice the profession of architecture pursuant to the New York state education law.

(73) *Registered design professional* means a professional engineer or registered architect.

(74) *Registration* means a notification to the department of the use or operation of equipment that may result in the emission of an air contaminant.

(75) *Renewable biomass* means crops and crop residue from existing agricultural land, tree residues, animal waste material and byproducts, slash and pre-commercial thinnings from non-federal forest land, biomass cleared from the vicinity of buildings and other areas to reduce the risk of wildfire, algae, and separated yard waste or food waste. Such term shall not include processed materials such as particle board, treated or painted wood and melamine resin-coated panels.

(76) *Renewable fuel* means fuel produced from renewable biomass or captured from landfills or wastewater treatment.

(77) *Residual fuel oil* means a fuel oil meeting the current definition of fuel oil grades No. 5 and 6 as classified by the [American society for testing and materials] *ASTM standard D396-12*.

[(50)] (78) *Scrubber* means a control apparatus [which] that uses water or other fluids to remove an air contaminant from [a gas] an exhaust stream.

[(51)] *Solid fuels* means anthracite and bituminous coal, or coke as currently defined by the American society for testing and materials.

(52)] (79) *Standard smoke chart* means the Ringelmann chart, as published by the United States bureau of mines, photographically reduced to 1/18th in size for use in the field.

[(53)] (80) *Stationary* means (i) not designed to be or capable of being carried or moved from one location to another, or (ii) kept at one location for more than twelve consecutive months.

(81) This code means the air pollution control code.

(82) *Ultra low sulfur diesel fuel* means diesel fuel that has a sulfur content of no more than fifteen parts per million.

(83) *Under-fired commercial char broiler* means a commercial char broiler that has a grill, a high temperature radiant surface, and a heat source that is located below the food.

(84) *Water heater* means a boiler used to heat and store water.

(85) *Wood burning heater* means any enclosed, permanently installed, indoor device burning pellets designed to be used primarily for aesthetic purposes.

(86) *Work Permit* means a permit issued for the installation or alteration of a device or apparatus.

§ 6. Subchapter 2 of chapter 1 of title 24 of the administrative code of the city of New York, paragraphs 3 and 4 of subdivision (b) of section 24-109 as amended by local law number 48 for the year 1989, subdivision (f) of section 24-109 as amended by local law number 49 for the year 1985, as redesignated pursuant to section 14 of chapter 907 of the laws of 1985, is amended to read as follows:

SUBCHAPTER 2

GENERAL PROVISIONS

§ 24-105 General powers of the commissioner. Subject to the provisions of this code, the commissioner may take such action as may be necessary to control the emission of any air contaminant [which] that causes or may cause, by itself or in combination with other air [contaminant] contaminants, detriment to the safety, health, welfare or comfort of the public or to a part thereof, injury to plant and animal life, or damage to property or business. The commissioner may exercise or delegate any of the functions, powers and duties vested in him or her or in the department by this code. The commissioner may adopt such rules, regulations and procedures as may be necessary to effectuate the purposes of this chapter, including rules, regulations and procedures to establish fees and to authorize and encourage the development and use of environmentally beneficial technologies.

§ 24-106 Investigations and studies by commissioner. The commissioner may make or cause to be made any investigation or study [which] that in his or her opinion is desirable for the purpose of enforcing this code or controlling or reducing the amount or kind of air [contaminant] contaminants. For such purposes, the commissioner may make tests, conduct hearings, compel the attendance of witnesses, and take their testimony under oath and may compel the production of books, papers and other things reasonably necessary to the matter under consideration.

§ 24-107 Testing by order of commissioner. (a) If the commissioner has reasonable cause to believe that any equipment or fuel is in violation of this code, the commissioner may order the owner of the equipment or fuel to conduct such tests as are necessary in the opinion of the commissioner to determine whether the equipment, its operation, or the fuel is in violation of this code, or whether material used in any manufacturing process is contributing to any violation of this code and to submit the test results to the commissioner within ten days after the tests are completed.

(b) Such tests shall be conducted in a manner approved by the commissioner. The test shall be certified by a laboratory acceptable to the commissioner. The entire test results shall be reviewed and certified by a professional engineer.

(c) The owner shall notify the commissioner of the time and place of a test at least seven days before the commencement of such test. Reasonable facilities shall be made available for the commissioner to witness the test.

(d) If in the opinion of the commissioner tests by the department are necessary,

the commissioner may order the owner to provide (1) sampling holes at such points in the stack, conduit, flue, duct or vent, as the commissioner may reasonably request, to provide a power source suitable to the points of testing, and to provide allied facilities, exclusive of sampling and sensory devices, or (2) test ports for gas burning equipment. These provisions shall be made at the expense of the owner of the equipment. The owner shall be furnished with copies of the analytical results of the samples collected.

(e) If the results of tests conducted pursuant to this section show that the equipment or fuel is in violation of this code, the commissioner shall order the owner to cure the defect within thirty days.

§ 24-108 Inspection and samples. (a) The department may inspect at any reasonable time and in a reasonable manner any equipment, apparatus, or fuel[, matter or thing which] that affects or may affect the emission of an air contaminant including but not limited to the premises where the equipment, apparatus, or fuel is used, or where the fuel is stored, purchased, sold, or offered for sale for use in New York city.

(b) The department may inspect at any reasonable time and in a reasonable manner any record relating to a use of equipment or apparatus [which] that affects or may affect the emission of an air contaminant, or relating to the use of fuel, or the distribution, storage or transportation of fuel for use in New York city.

(c) The department may, at any reasonable time and in a reasonable manner, obtain a sample of an air contaminant, [fuel, process material, or other material which] or any other substance used in a process that affects or may affect the emission of an air contaminant.

(d) If an authorized employee of the department obtains a sample of an air contaminant[, fuel, process material or other material which] or any other substance used in a process that affects or may affect the emission of an air contaminant during the course of an inspection, he or she shall give to the owner of the equipment or fuel, prior to leaving the premises, a receipt for the sample obtained.

(e) No person shall refuse entry or access into a place of business or into the public areas of a multiple dwelling [or a place of business] to an authorized employee of the department who presents appropriate credentials nor shall any person refuse entry or access into any other portion of a premises to an authorized employee of the department who presents appropriate credentials and a search warrant.

(f) The owner of every building, other than a one- or two-family [home] dwelling, shall make the area where the heating system [or refuse burning equipment, or both,] is located readily accessible to members of the department pursuant to the requirements of section 27-2033 of the code.

§ 24-109 Registrations [generally]. (a) [In addition to the registrations required by subdivision (b) of this section the commissioner may order the written registration of emission sources other than those located in one or two family dwellings and motor vehicles. A period of sixty days from publication in the City Record of the commissioner's order shall be allowed for the filing of such registration. In cases of an emergency, the commissioner may designate a shorter period of time.

(b) No person shall cause or permit the following unless he or she has first registered with the department:

(1) [the] *The spraying of any insulating material in or upon any building or other structure during its construction, alteration or repair[;].*

(2) [the] *The demolition of any building or other structure, or part thereof, unless the demolition of the building or structure is being [demolished pursuant to chapter one of title seventeen or article eight of subchapter two of chapter one of title twenty-six of the code] conducted by or on behalf of a city agency pursuant to chapter one of title seventeen of the code or pursuant to an order issued by the department of buildings under article two hundred fifteen of chapter two of title twenty-eight of the code.*

(3) The installation, alteration, use or operation of [any fuel burning equipment which in the aggregate, feeding into a common emission point,] an individual boiler or water heater that has a [Btu] heat input [or gross output] equal to or greater than three hundred fifty thousand Btu per hour but less than [one] four million two hundred thousand Btu per hour.

(4) The installation, alteration, use or operation of [any fuel burning equipment which] any boilers, including water heaters, that are owned by the same person in a single building and would not individually require a registration or certificate of operation, if in the aggregate[, feeding into a common emission point, has] such boilers have a [Btu] heat input [or gross output] equal to or greater than three hundred fifty thousand Btu per hour [but less than 2.8 million Btu per hour and which uses a fuel gas, gasoline, or fuel oil grades Nos. 1 or 2 as classified by the American society for testing and materials]. Such boilers shall be registered together in a single registration.

(5) *The use or operation of fuel burning equipment or portable equipment with a heat input equal to or greater than three hundred fifty thousand Btu per hour but less than four million two hundred thousand Btu per hour.*

(6) *The use or operation of any emergency generator that has an output equal to or greater than forty kilowatts.*

(7) *The use or operation of any portable generator with an output equal to or greater than forty kilowatts.*

(8) *The use or operation of a portable engine with an input equal to or greater than fifty horsepower but less than six hundred horse power except for self-propelled construction or landscaping equipment.*

(9) *The use or operation of a stationary generator, other than an emergency generator, with an output equal to or greater than forty kilowatts but less than four hundred fifty kilowatts.*

(10) *The use or operation of a stationary engine with an input of equal to or*

greater than fifty horsepower but less than six hundred horsepower.

(11) The use or operation of equipment with an environmental rating of C that produces a flow rate equal to or greater than one hundred standard cubic feet per minute but less than two thousand standard cubic feet per minute.

(12) The use or operation of a cogeneration system that has a total input equal to or greater than three hundred fifty thousand Btu per hour but less than four million two hundred thousand Btu per hour.

(13) The installation, use or operation of any flare.

(14) The installation, use or operation of any gasoline dispensing station.

(15) The installation, alteration, use or operation of any commercial char broiler.

(16) Any other emission source or activity not listed in paragraphs one through fifteen of this subdivision that the commissioner requires by rule to be registered with the department, provided that the commissioner shall not require by rule the registration of any emission source or activity located in a one- or two-family dwelling or a motor vehicle.

(b) Registration shall not be required for any fuel burning equipment for which a certificate of operation is required pursuant to subchapter four of this code.

(c) Registration shall be [made] filed on forms [furnished] prescribed by the department.

(1) [Forms for registration pursuant to subdivision (a) of this section may require information concerning the unit of equipment covered by the registration, the kind and amount of air contaminant emitted by the equipment, medical and other scientific information concerning the effects of the air contaminant on persons, animals, and plants, and any additional information required by the commissioner for the purpose of enforcing this code.

(2) Forms for registration pursuant to paragraph one of subdivision (b) of this section shall require information concerning the kind and amount of insulating material that will be sprayed, the composition of the insulating material, medical and other scientific information concerning the effects of the insulating material on persons, animals, and property, the precautions that will be taken to prevent the insulating material from being emitted into the open air, and any additional information required by the commissioner for the purpose of enforcing this code. Registration for spraying of insulating material shall be filed at least five days prior to commencement of such spraying work.

(3) Forms for registration pursuant to paragraph two of subdivision (b) of this section shall require information concerning the kind and amount of particulate matter that it is reasonably anticipated may be released as a result of the demolition, the precautions that will be taken to prevent particulate matter from becoming airborne, and any additional information required by the commissioner for the purpose of enforcing this code.

(4) The registrant shall maintain the registration in current status by notifying the commissioner of any change in any item of information furnished in compliance with this section, other than a change in ownership, within a reasonable time not to exceed fifteen days] *An application for the registration of any boiler shall include documentation that the boiler has passed a combustion efficiency test. The commissioner shall specify by rule the requirements for such test.*

(2) (i) *An application for the registration of any generator shall include documentation that the generator has passed a smoke test performed in accordance with the procedures set forth in "Method 9 - Visual determination of the opacity of emissions from stationary sources," Appendix A-4 to part sixty of title forty of the code of federal regulations, or documentation in the form of certification by a professional engineer or registered architect that a stack test has been performed in accordance with the rules of the department.*

(ii) *The department may require that any portable generator being registered for the first time be made available for a smoke test to be conducted by the department before the application for registration will be processed. If the department conducts such smoke test, the documentation required in subparagraph (i) of this paragraph shall not be required.*

(iii) *The requirements of this paragraph shall not apply to any newly installed generator that is being registered for the first time and that is equipped with an engine certified to the tier four emissions standards established by the United States environmental protection agency as set forth in table one of section 1039.101 of title forty of the code of federal regulations or to any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent, provided that the requirements of this paragraph shall apply to such generator upon renewal of such registration.*

(d) Registration shall be [made] filed by the following persons:

(1) [If the registrant is a partnership or group other than a corporation, the registration shall be made by an individual who is a member of the group.

(2) If the registrant is a corporation, the registration shall be made by an officer of the corporation.

(3) In the case of registration pursuant to subdivision (a) of this section by the owner of the equipment.

(4) In the case of registration pursuant to paragraph one of subdivision [(b)] (a) of this section, by the [person] contractor responsible for the [construction, alteration or repair of the building or other structure in or upon which] spraying [will occur] of the insulating material.

[(5)] (2) In the case of registration pursuant to paragraph two of subdivision [(b)] (a) of this section, by the [person] contractor responsible for the demolition [of the building or structure] activity.

(3) *In the case of registration pursuant to any other paragraph of subdivision*

(a) of this section, by the owner of the equipment or his or her authorized agent.

(e) [Registration shall be made in duplicate. Upon approval thereof, a stamped] *After a registration has been approved, the department shall return an approved copy to the registrant. The approved copy [of the registration shall be returned to the registrant, and] shall be displayed in accordance with section 24-113 of this subchapter.*

(f) [Registration of equipment or apparatus shall be valid for a period of up to three years from the date of approval of the initial registration or renewal, unless sooner revoked or cancelled by the commissioner. Where a registration is renewed after its expiration, the registration fee charged in accordance with the provisions of this part shall be increased on a monthly pro-rated basis for the period of time between such expiration and renewal, unless it is shown to the satisfaction of the commissioner that registration was not required under the provisions of this chapter.] *Any registrant, except a registrant of equipment described in paragraphs seven or eight of subdivision (a) of this section, shall notify the department within fifteen days of any change in the information submitted in the registration. If the change in information relates to a change in ownership of the equipment then the new owner shall notify the department of the change.*

(g) *Registrations shall be valid for up to three years from the date of approval, unless cancelled by the department. Registrations shall be renewed in a timely manner prior to expiration. A registration that has been expired for a period of one year or more shall be considered cancelled by the department. Applications for registration renewals shall be submitted on a form prescribed by the department.*

(h) *The application for a registration of new equipment shall indicate whether the new equipment is replacing existing registered equipment. The existing registration shall be cancelled upon registration of the new equipment.*

(i) *The registrant shall notify the department when removing registered equipment, and the registration shall be cancelled upon such notification.*

§ 24-110 Variances. (a) The commissioner may grant individual variances[, except to governmental agencies, beyond the limitations prescribed by this code,] whenever it is found, upon presentation of adequate proof, that compliance with any provision of this code, or with any regulation or order of the commissioner in respect to this code, would impose unreasonable hardship. In granting a variance the commissioner may impose such conditions as the policies of this code may require and shall [publish in the City Record] *post on the Internet, through a web portal that is linked to nyc.gov or any successor website maintained by or on behalf of the city of New York, no later than seven days after the granting of such variance a written opinion, stating the facts and reasons leading to his or her decision.*

(b) Any variance granted pursuant to this section shall be granted for such period of time[, not to exceed six months,] as shall be specified by the commissioner at the time of the grant of such variance and upon the condition that the person who receives such variance shall [make such periodic progress reports] *provide such documentation as the commissioner shall specify. Such variance may be extended [for periods not to exceed six months] by affirmative action of the commissioner, but only if satisfactory progress has been shown.*

(c) Any person seeking a variance shall do so by filing a petition for variance in a form acceptable to the commissioner. The commissioner shall [promptly give written notice of such petition to any person in the city who has in writing requested notice of variance petitions, and shall publish notice of such petition in the City Record. If the commissioner, in his or her discretion, concludes that a hearing would be advisable, or if any person files a written objection to the grant of such variance within twenty-one days from the publication of notice in the City Record, then a public hearing shall be held] *post any petition for a variance on the Internet, through a web portal that is linked to nyc.gov or any successor website maintained by or on behalf of the city of New York.*

(d) The commissioner may grant individual or group variances beyond the sulfur content restriction prescribed by section 24-169 of this code, whenever it is found, upon presentation of adequate proof, that the supply of fuel oil is insufficient to meet the demands of residents of the city of New York for heat, hot water, and electrical power. Where an applicant can show that it has an insufficient reserve of fuel oil meeting the sulfur content requirements of this code and that it is unable to buy a sufficient amount of such fuel oil to meet its fuel oil demands during the pendency of its variance application, the commissioner may grant a variance for up to forty-five days without complying with the procedural [requirement] *requirements of this section, except for the [publication] requirement of subdivision (a) to post a written opinion. During the time in which a temporary variance is running, the commissioner shall review, as soon as practicable, the application for a variance treating it as any other variance application.*

[(e) With respect to a variance for the spraying of any substance containing asbestos in or upon a building or other structure during its construction, alteration or repair the commissioner shall in determining undue hardship take cognizance that such construction, alteration or repair was commenced or a permit has been granted for same by the department of buildings prior to August twentieth, nineteen hundred seventy-one or six months thereafter and that a non-asbestos spray material has not been approved for fireproof purposes by the department of buildings.]

§ 24-111 Interfering with or obstructing departmental personnel. No person shall interfere with or obstruct [the commissioner or] any department employee in carrying out any *official duty [for the commissioner or the board].*

§ 24-112 False and misleading statements; unlawful reproduction or alteration of documents. (a) No person shall knowingly make a false or misleading statement or submit a false or misleading document to the department as to any matter within the jurisdiction of the department.

(b) No person shall make, reproduce or alter or cause to be made, reproduced or altered a *work permit, certificate of operation or other document issued by the*

commissioner or required by this code if the purpose of such reproduction or alteration is to evade or violate any provision of this code or any other law.

§ 24-113 Display of *work* permits, certificates of operation, registrations and other notices[; removal or mutilation prohibited]. (a) Any *work* permit, certificate of operation or registration required by this code shall be [displayed in the vicinity of the equipment on the premises designated on the permit or certificate, or in the vicinity of the equipment which will be operated or supervised, or in the case of registration pursuant to subdivision (b) of section 24-109 of this code, in the vicinity of the premises designated on the registration.

(b) A notice containing the provisions of subchapters six, seven and eight of this chapter, or a summary of them, shall be displayed in the vicinity of the equipment of any vessel while it is in waters within the jurisdiction of the city of New York. The notice shall be in the language of the country of registry, and in the language commonly spoken by the crew of the vessel.

(c) A notice printed in not less than twelve point type shall be displayed in the vicinity of fuel burning equipment using residual oil containing information as may be prescribed by the commissioner] *prominently displayed in a manner visible to any person inspecting the equipment.*

§ 24-114 Enforcement of this code by other than compulsory means. Nothing in this code shall prevent the commissioner from making efforts to obtain voluntary compliance by way of warning, notice or educational means. However, such non-compulsory methods need not be used before proceeding by way of compulsory enforcement.

§ 24-115 Service of papers. (a) Service of any written notice, order or decision related to *equipment* as required by this code shall be made [on the owner] as follows:

(1) Either by mailing the notice, order or decision directed to the owner of the equipment at the address listed in his or her application, *work* permit or [operating] certificate of operation or at the address where the equipment is located; or

(2) By leaving the notice, order or decision with the owner of the equipment, or if the owner is not an individual, with a member of the partnership or group concerned or with an officer or managing agent of the corporation.

(b) Service of any written notice, order or decision *not related to equipment* as required by this code shall be made on a person:

(1) [Either by] *By* mailing the notice, order or decision directed to the person at his or her principal place of business; or

(2) By leaving the notice, order or decision with the person, or if the person is not an individual, with a member of the partnership or group concerned, or with an officer or managing agent of the corporation.

(c) Service of any written notice required by this code shall be made on the department, commissioner or the board [as follows:

(1) Either] by mailing the notice to the commissioner[; or

(2) By leaving the notice at the department with an employee of the department designated for this purpose].

§ 24-116 Inconsistent provisions. Insofar as the provisions of this code are inconsistent with the provisions of any other title of the code, or any rule or regulation of any governmental agency of the city of New York, the provisions of this code shall be controlling.

§ 24-116.1 *Addition, modification, and deletion of referenced standards. The standards referenced in this code, including standards promulgated by ASTM International, may be added to, deleted or modified pursuant to local law or by rule of the department.*

§ 7. The heading of subchapter 3 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

SUBCHAPTER 3

REFUSE BURNING EQUIPMENT[, REFUSE COMPACTING SYSTEMS AND REFUSE CONTAINERIZATION SYSTEMS]; INCINERATORS AND CREMATORIALS

§ 8. Section 24-117 of the administrative code of the city of New York is REPEALED.

§ 9. Section 24-118 of the administrative code of the city of New York is amended to read as follows:

§ 24-118 Installation of refuse burning equipment, [other than] municipal equipment, [prohibited; new installation] *incinerators and crematoriums*. No person shall cause or permit the installation of [refuse burning] equipment[. This prohibition shall not apply to refuse burning equipment operated by] *designed to burn solid waste, as such term is defined in section 16-209 of the code, provided that the following equipment shall not be prohibited:*

(1) [Any] *An incinerator operated by any hospital, biological laboratory or other medical facility required to incinerate dressings, biological and obstetrical wastes, contagious and infectious materials, disposable syringes and needles, amputations, and [general rubbish] other materials under [the public health law] any state or local laws, rules or regulations thereunder; or*

(2) [The] *Equipment operated by the department [or the department of sanitation] in connection with sewage treatment plants [and solid waste disposals] for energy generation; or*

(3) [The department of transportation in connection with waterborne marine transportation facilities operated under its jurisdiction] *Equipment operated by or on behalf of the department of sanitation in connection with solid waste disposal or processing for energy generation or other resource recovery or such other purposes as may be permitted by the rules of the department; or*

(4) *Crematoriums used to reduce human or animal remains to their basic*

elements using high heat.

§ 10. Section 24-119 of the administrative code of the city of New York is REPEALED.

§ 11. Subchapter 4 of chapter 1 of title 24 of the administrative code of the city of New York, paragraph (2) of subdivision (b) of section 24-122 as amended by local law number 49 for the year 1985 and as redesignated pursuant to section 14 of chapter 907 of the laws of 1985, subdivision (d) of section 24-122 as added by local law number 49 for the year 1985 and as redesignated pursuant to section 14 of chapter 907 of the laws of 1985, subdivision (b) of section 24-123 as amended by local law number 14 for the year 1989, and subdivision (c) of section 24-125 as added by local law number 58 for the year 1991, is amended to read as follows:

SUBCHAPTER 4

WORK PERMITS AND CERTIFICATES OF OPERATION

§ 24-120 Installation and alteration; *work* permit required. No person shall cause or permit the installation or alteration of equipment or apparatus, except as provided in section 24-121 of this code, without first obtaining a *work* permit from the commissioner, and such other licenses or permits as may be required by other governmental agencies and departments.

§ 24-121 [Permits] *Work permits*, exemptions. (a) A *work* permit shall not be required for the installation or alteration of the following equipment or apparatus:

(1) Air conditioning, ventilating, or exhaust systems not designed to remove air [contaminant] *contaminants* generated by or released from equipment *or exhaust systems for controlling steam and heat.*

(2) Air contaminant detector or air contaminant recorder.

(3) *Construction equipment except for generators.*

(4) *Deicing storage tanks.*

(5) Dilution ventilating systems for control of welding fumes and gases.

[(4) Exhaust systems for controlling steam and heat.

(5) Fuel burning equipment, other than smoke house generators, which in the aggregate has a Btu input or gross output of not more than one million Btu per hour.]

(6) *Equipment with an environmental rating of D.*

(7) Fuel burning equipment [which in the aggregate] *that* has a Btu input or a gross output of less than [2.8] *four million two hundred thousand* Btu per hour and uses a fuel gas, *natural gas*, gasoline or fuel oil grade No. 1 or 2 [as classified by the American society for testing and materials].

[(7) Fumigation vaults having an environmental rating of D in accordance with section 24-153 of this code.]

(8) Installations for the preparation of food for on-site consumption or retail purchase, unless required *elsewhere in this code* or pursuant to [regulations] *rules* issued by the commissioner.

(9) Internal combustion engines used to power *any* motor [vehicles] *vehicle* or [other] *any* stationary [engines which have a Btu] *engine that has an* input of not more than [three hundred fifty thousand Btu per hour] *six hundred horsepower.*

(10) Laboratory equipment used exclusively for chemical or physical analyses of non-radioactive material.

(11) Refrigeration equipment used for cold storage.

(12) [Sewing equipment] *Steam safety valves.*

(13) Vents used exclusively by tanks used [in] *for* the storage of[:

(i) Residual and distillate] fuel oil[; or

(ii) (A)], *biodiesel, liquid soap, liquid detergent, tallow or vegetable oil, waxes, or emulsions.*

(14) *Vents used exclusively as part of a* sanitary or storm drainage systems[; or

(B) steam or air safety valves; or

(iii) Liquid soap, liquid detergent, tallow or vegetable oil, waxes, or emulsions.

(14) Type metal crucible or melting pots used in connection with printing presses and having an environmental rating of D in accordance with section 24-153 of this code].

(15) Vacuum cleaning systems used exclusively for industrial, commercial or residential housekeeping.

(16) [Vents used exclusively for:

(i) Sanitary or storm drainage systems; or

(ii) Steam or air safety valves; or

(iii) Storage tanks.

(17)] Ventilating or exhaust systems for [paint] storage rooms or cabinets *for paint, ink, or solvents.*

[(18)] (17) Water cooling towers and water cooling ponds not used for evaporative cooling of process water, or not used for evaporative cooling of condensed water for jet or barometric condensers.

(18) *Equipment for which a registration is required pursuant to section 24-109 of the code.*

(19) *Any other equipment or apparatus exempted by the commissioner by rule.*

(b) A *work* permit shall not be required for the installation or alteration of equipment or apparatus in one and two-family dwellings.

(c) Although a *work* permit is not required for the installation or alteration of the equipment or apparatus listed in subdivisions (a) and (b) of this section, such

equipment and apparatus shall otherwise comply with this code.

(d) A *work* permit shall not be required to begin an alteration of equipment or apparatus if delaying the alteration may endanger life or the supplying of essential services. The department shall be notified in writing of the alteration within twenty-four hours or on the first working day, after the alteration is commenced, and an application for a *work* permit shall be filed within fourteen days after the day the alteration is commenced.

(e) Nothing in this section shall in any way alter, affect, or change any other requirement or law of any other governmental agency or department.

§ 24-122 [Operating certificates] *Certificates of operation* and renewal of [operating] certificates of operation; when required. (a) No person shall cause or permit the use or operation of equipment or apparatus for which [an installation or alteration] a *work* permit is required *without first obtaining a certificate of operation from the commissioner*, except the use or operation for the purpose of testing the equipment or apparatus or for the purpose of testing an experimental installation or alteration for a reasonable period of time, not exceeding [thirty] *sixty* days, [without first obtaining an operating certificate from the commissioner. The provisions of this subdivision concerning an experimental installation or alteration shall not apply to an installation or alteration for the purpose of obtaining a sulfur exemption certificate] *as follows*:

(1) *Testing of the equipment, apparatus, or experimental installation or alteration is permitted for an initial period of thirty days beginning upon notification to the department of a start date.*

(2) *If a person discovers during testing of the equipment, apparatus, or experimental installation or alteration that the equipment requires repairs, such person shall notify the department of a new start date within ten days of the discovery and shall have an additional thirty days from such new start date to test the equipment.*

(b) [Except as provided in subdivision (c) of this section, or in paragraphs three and four of subdivision (b) of section 24-109, no] *No person shall cause or permit the use or operation of the following equipment, or cause or permit the keeping of any such equipment so as to be capable of being used or operated, without first obtaining [an operating] a certificate of operation from the commissioner.*

(1) Fuel burning equipment [using liquid, gaseous or solid fuel];

(2) Equipment used in a process, *except as otherwise provided by the commissioner by rule*;

(3) Portable equipment [powered by an internal combustion engine other than a motor vehicle];

(4) [Refuse burning equipment, including equipment operated by the department;

(5) Any equipment which was required by law to have an operating certificate prior to January ninth, nineteen hundred eighty-three] *Equipment described in subdivisions one through four of section 24-118 of the code.*

(c) [An operating certificate is not required for fuel burning equipment or refuse burning equipment which is in a building to be demolished to permit the erection of a new building if:

(1) The new building application has been approved by the department of buildings; and

(2) Certificates of eviction have been issued by the department of housing preservation and development where required; and

(3) Final order for eviction has been issued.] *No certificate of operation shall be required for equipment for which a registration is required pursuant to section 24-109 of the code.*

(d) [(1) An operating] *A certificate of operation for equipment[, except refuse burning equipment,] shall be valid for a period of up to three years from the date of issuance, unless sooner revoked or cancelled by the commissioner.*

[(2) An operating certificate for refuse burning equipment shall be valid for a period of up to eighteen months from the date of issuance, unless sooner revoked or cancelled by the commissioner.

(3) Where an operating certificate described in paragraph one or paragraph two of this subdivision is renewed after its expiration, the fee for such certificate charged in accordance with the provisions of this chapter shall be increased on a monthly pro-rated basis for the period of time between such expiration and renewal, unless it is shown to the satisfaction of the commissioner that such certificate was not required under the provisions of this title.

(e) An operating certificate is not required for equipment or apparatus the installation or operation of which would not require a permit pursuant to section 24-121.

(f) (e) If equipment or apparatus for which [an operating] *a certificate of operation* has been issued is dismantled or rendered inoperable, the owner of such equipment or apparatus shall notify the department within twenty days on forms furnished by the department. If the commissioner finds to his or her satisfaction that such equipment or apparatus has been dismantled or rendered inoperable, renewal of the [operating] *certificate of operation* shall not be required for as long as the equipment or apparatus remains dismantled or inoperable.

§ 24-123 General requirements for applications for *work* permits, certificates of operation, and renewal of certificates of operation. (a) Application for [an installation or alteration] *a work* permit, for a certificate of operation or for the renewal of a certificate of operation shall be made by the owner of the equipment or apparatus on forms furnished by the department. If the applicant is a partnership or group other than a corporation, the application shall be [made] *signed* by one individual who is a member of the group. If the applicant is a corporation, the application shall be [made] *signed* by an officer of the corporation.

(b) [Applications for permits, and operating certificates required by subdivision (b) of section 24-122 of this code, shall be filed at the department of buildings except that such applications shall be filed with the department of ports and trade with respect to buildings under the jurisdiction of such department.

(c) A separate application is required for each unit of equipment or apparatus, unless identical units of equipment or apparatus are to be installed, altered or operated in an identical manner in the same building.

[(d)] (c) Each application shall be signed by the applicant and [professionally certified as to] *by an architect, engineer or any other professional approved by the commissioner by rule. The architect, engineer or other professional shall certify the accuracy of the technical information concerning the equipment or apparatus contained in the application, plans and other papers submitted. In the case of an application for the [operating] certificate of operation required by this code, the certifying [engineer or] architect, engineer or other professional shall also certify that he or she inspected the equipment and that the equipment satisfies the provisions of this code. [For the renewal of a certificate, the applicant's professional engineer or architect shall certify that the equipment satisfies the provisions of this code.] The signature of the applicant shall constitute an agreement that the applicant will assume responsibility for the installation, alteration or use of the equipment or apparatus concerned in accordance with the requirements of this code.*

[(e)] (d) Application for the renewal of [an operating] *a certificate of operation* shall be filed no later than [ninety] *forty-five* days *and no earlier than one hundred twenty days* prior to the expiration of the *certificate of operation*.

[(f)] (e) Application for [an installation or alteration] *a work* permit or for [an operating] *a certificate of operation* is automatically cancelled if a certificate of workers' compensation and a certificate of disability insurance is not filed with the department within sixty days after service on the applicant of a notice of failure to file such certificate, exclusive of the day of service.

[§ 24-124 Information required for applications for permits, sulfur exemption certificates. (a) Each application for a permit or installation or alteration of experimental equipment or apparatus shall be in a manner prescribed by the commissioner.

(b) An application for the installation or alteration of control apparatus to obtain a sulfur exemption certificate shall describe in detail the following:

(1) The kind and amount of fuel for which the sulfur exemption certificate is sought; and

(2) The location of the fuel burning equipment; and

(3) The manner of operation of the fuel burning equipment; and

(4) Any additional information, evidence or documentation which may be required by the commissioner.

(c) Information concerning secret processes which may be required, ascertained or discovered by the department shall not be disclosed by any department employee, except that the information may be disclosed by the commissioner if the department is subpoenaed for the information or if in the course of a departmental court proceeding or department or board hearing, the information is relevant to the proceeding or hearing.]

§ 24-125 Standards for granting *work* permits. (a) Except as provided in section 24-126 of this code, no *work* permit shall be granted unless the applicant [demonstrates and/or] certifies to the satisfaction of the commissioner that:

(1) The equipment is designed and will be installed or altered to operate in accordance with the provisions of this code *and with any applicable rules the commissioner may promulgate pursuant to this code*;

(2) The equipment [incorporates advances in the state of the art of air pollution control developed for the kind and amount of air contaminant emitted by the applicant's equipment] *has been certified by a registered design professional to meet the current applicable federal, state and city emission standards*;

(3) [The equipment is designed and will be installed or altered consistent with any regulations for such equipment issued by the commissioner;

(4) Equipment [which] *that* will have a stack [or duct three feet or more in diameter], *chimney, or breaching* will be provided with:

(i) Sampling ports of a size, number and location as the [department] *commissioner* may require, and

(ii) Safe access to each port, and

(iii) Such other sampling and testing facilities as the commissioner may require;

[(5)] (4) Refuse burning equipment operated by the department contains control apparatus which meets [the] *any performance standards that may be prescribed by the commissioner*;

(6) (5) When required by the commissioner, fuel burning equipment [which] *that* will use residual fuel oil will be installed with an air contaminant detector together with either a combustion shutoff or, when acceptable to the commissioner, an air contaminant recorder, except that no combustion shutoff shall be required on fuel burning equipment used to generate steam for off-premises sale or electricity; *and*

[(7)] (6) All parts of the equipment can be readily cleaned and repaired[; and

(8) Operation of the equipment will not prevent the attainment or maintenance of applicable emission criteria].

(b) In order to reduce the emission of air contaminants and to insure optimum combustion in fuel burning equipment and refuse burning equipment, such equipment shall be shown to the satisfaction of the commissioner to:

(1) Be of a proper size to handle the planned load, be located in a proper place[.] *and incorporate appropriate apparatus [and have proper operating, regulating and control devices]; and*

(2) [Be operated at appropriate times and by appropriate persons; and

(3)] Burn fuel or [refuse] *other material* determined by the commissioner to be appropriate for the specific size and type of equipment.

(c) The commissioner may require that any equipment or apparatus [with respect to which] *that requires a work permit* [is required], or any class or category of such equipment or apparatus, be included on a list of accepted equipment or apparatus maintained by the department. No acceptance for listing of equipment or apparatus shall be granted unless the applicant [demonstrates and/or certified] *certifies* to the satisfaction of the commissioner that such equipment or apparatus complies with all applicable provisions of this code [(including the requirements of subdivisions a and b of this section) and of the rules concerning engineering criteria for fuel burning equipment] and such other applicable rules as the commissioner may promulgate pursuant to this code. [An application for acceptance shall be accompanied by the required fee.]

§ 24-126 Conditional approval of [permits] *experimental installations and alterations*. The commissioner may grant a *work permit, or an alternative form of approval*, for an experimental installation or alteration on conditional approval if it appears likely from all of the information submitted that the installation or alteration when completed may satisfy the standards of section 24-125 of this code. The *work permit* shall be [for a reasonable time,] *valid for a period* not to exceed three years. [This section shall not apply to a permit for the purpose of obtaining a sulfur exemption certificate.]

§ 24-127 [Cancellation] *Expiration* of [installation and alteration] *work permits*. (a) [The commissioner may cancel a permit for the installation of equipment or apparatus in new buildings] *In newly constructed buildings, a work permit shall expire* if the installation is not completed within one year from the date of issuance of the *work permit* or if work on the installation under *the work permit* is suspended for more than ninety days.

(b) [When not a new building, the commissioner may cancel a permit for the installation or alteration of equipment or apparatus] *In existing buildings, a work permit shall expire* if the installation or alteration is not begun within ninety days from the date of issuance of the *work permit* or if the work of the installation or alteration is suspended for more than thirty days or if the installation or alteration is not completed within six months.

(c) [With the consent of the commissioner, and in his or her discretion, an applicant may secure an extension of the expiration date on written request to the commissioner stating the reasons therefor.] Extensions may be granted for a period of not more than six months *per extension, provided that an application for an extension shall be made at least thirty days prior to the expiration of the work permit*.

(d) *An expired work permit shall be reinstated if it is filed within one year of the expiration date of the work permit. If an application for reinstatement is not filed within one year of the expiration date of the work permit, then a new application shall be filed with the department.*

§ 24-128 Standards for granting or renewing [operating] certificates of operation. (a) No [operating] *initial certificate of operation* shall be granted for the use or operation of equipment or apparatus for which [an installation or alteration] *a work permit* is required unless the applicant [shows to the satisfaction of the commissioner that the equipment or apparatus satisfies the standards of section 24-125 of this code and is installed or altered in accordance with the requirements and conditions contained in the permit, or if installed or altered in a manner which deviates from the permit, that the deviation from the permit does not adversely affect the emission of air contaminant] *first requests an inspection by the department to certify that the equipment or apparatus is installed in accordance with the work permit and operates in accordance with this code. Such inspection shall include testing as set forth in subdivision (a) of section 24-129 of this code.*

(b) [No operating certificate shall be granted for the use or operation of existing equipment for which a certificate is required by subdivision (b) of section 24-122 of this code unless the applicant files an application and plans as required by section 24-124 of this code for installation and alteration permits, and shows to the satisfaction of the commissioner that:

(1) The equipment satisfied the standards required by section 24-125 of this code for the granting of a permit for similar new or altered equipment, with the exception of the requirements relating to stacks and ducts in paragraph four of subdivision (a) of section 24-125 of this code; and

(2) Refuse burning equipment includes the installation and use of:

(i) An auxiliary gas burner regulated by automatic firing clocks; and

(ii) An overfire air fan and nozzle system; and

(iii) Control apparatus such as a scrubber and/or additional control apparatus or such equivalent as may be determined by the commissioner.

(iv) Subparagraphs (i) and (ii) shall not apply to refuse burning equipment operated by the department of sanitation.

(3) Fuel burning equipment using residual fuel oil includes the installation and use of:

(i) A combustion controller; and

(ii) An automatic oil temperature maintenance device; and

(iii) An automatic water temperature device or its equivalent; and

(iv) Such additional control apparatus as may be determined by the commissioner.

(4) Fuel burning equipment using solid fuel includes the installation and use of:

(i) A combustion controller; and

(ii) An automatic water temperature maintenance device or its equivalent; and

(iii) Such additional control apparatus as may be determined by the commissioner.

(c) No [operating] certificate of operation shall be *granted or renewed* for the use or operation of equipment or apparatus unless the applicant shows to the satisfaction of the commissioner that the equipment or apparatus covered by such certificate [continues to satisfy] *of operation satisfies* the standards established in the code or by rules or regulations thereunder in effect on the date of the issuance of the original [operating] certificate of operation.

[(d)] (c) An application for [an operating] *a certificate of operation* or any renewal or reinstatement thereof may be denied by the commissioner if any board penalty against the owner of equipment or apparatus which is the subject of the application has not been complied with or satisfied.

[(e)] (d) If an owner fails to make *an application to renew* [an operating] *a certificate of operation* within one hundred eighty days from the date of mailing of notice by the commissioner that such application is required, such owner shall be required to file a new application for a *work permit* pursuant to [section] *sections 24-123 and 24-125 of the code.*

§ 24-129 Testing before granting or renewing of [operating] certificates [and sulfur exemption certificates] of operation. (a) [Before an operating certificate, or a sulfur exemption certificate as provided by subdivision (a) of section 24-171 of this code is granted or renewed, the commissioner may require the applicant to conduct such tests as are necessary in the opinion of the commissioner to determine the kind or amount of air contaminant emitted from the equipment, or to determine whether the equipment or apparatus, its operation, or the fuel or material used is contributing to, or is in, violation of this code. The test shall be made at the expense of the applicant] *A certificate of operation shall not be granted or renewed unless the equipment passes such tests as the commissioner may require by rule. The commissioner may require the applicant to conduct such tests. A failing test result shall result in disapproval.*

(b) [Such tests shall be conducted, reviewed and certified as provided by subdivision (b) of section 24-107 of this code. The applicant shall notify the department of the time and place of a test as provided by subdivision (c) of section 24-107 of this code. Reasonable facilities shall be made available for the department to witness the test.

(c) If in the opinion of the commissioner tests by the department are necessary, the facilities for such tests, exclusive of sampling and sensory devices, shall be furnished by and at the expense of the owner or lessee or his or her agent as provided by subdivision (d) of section 24-107 of this code.

§ 24-130 Action on applications for *work permits* and certificates of operation. (a) The commissioner shall act within a reasonable time not to exceed [sixty] *forty-five* days on an application for a *work permit* or certificate of operation, or for a renewal of a certificate of operation, and shall notify the applicant in writing of his or her approval or disapproval of the application.

(b) If an application is disapproved, the commissioner shall set forth his or her objections in the notice of disapproval [or notice of violation].

(c) Within [sixty] *forty-five* days after service on the applicant of the notice of disapproval [or notice of violation exclusive of the day of service], the applicant may request the commissioner to reconsider the application by answering in writing the commissioner's objection to the application. *The application shall be deemed cancelled if the applicant fails to answer or request an extension of time within forty-five days after the service of the notice of disapproval.*

(d) The commissioner shall consider the applicant's answer to his or her objections, and shall notify the applicant in writing within a reasonable time, not to exceed [sixty] *forty-five* days, of his or her approval or denial of the application. [Failure to answer or request an extension of time within sixty days after service of the notice of disapproval or a notice of violation shall be deemed a denial of the application.]

(e) The commissioner may grant a temporary [operating] certificate of operation for a period not to exceed sixty days upon receipt of an application for the granting or renewal of [an operating] *a certificate of operation* and may, at his or her discretion, renew a temporary [operating] certificate of operation for an additional period not to exceed sixty days.

§ 24-131 Conditions of *work permits* and certificates of operation to be observed. The holder of a *work permit* or certificate of operation shall comply with the conditions and terms contained [therein as well as all applicable provisions of this code] *in the work permit or in the certificate of operation.*

§ 24-132 Suspension or revocation of *work permits* and certificates of operation. (a) The commissioner shall suspend or revoke a *work permit* or certificate of operation when ordered to do so by the board pursuant to subchapter nine of this code.

(b) Suspension or revocation of a *work permit* or certificate of operation shall become final five days after service of notice[, exclusive of the day of service,] on the holder of the *work permit* or certificate of operation.

[§ 24-133 Denial of permits and certificates; departmental hearing, stay of action. (a) When the commissioner has made a final decision denying an application for a permit or certificate, the applicant for the permit or certificate may request a hearing by the commissioner to reconsider his or her action. The request for a hearing shall be served within fifteen days following service of notice of denial, exclusive of the day of service, upon an employee of the department designated for this purpose.

(b) The request for a hearing shall be in a manner prescribed by the commissioner.

(c) The person making the request shall submit a memorandum containing his or

her objections to the action of the commissioner within five days following service of the request for a hearing, exclusive of the day of service.

(d) The commissioner or the designated hearing officer conducting such hearings shall:

(i) follow the procedures found in section 24-184 of this code; and,

(ii) commence the hearing within thirty days after receiving the applicant's memorandum.

(e) At the conclusion of the hearing, the commissioner or hearing officer shall issue a decision in compliance with section 24-186 of this code.]

§ 24-134 Surrender of work permits and certificates of operation. A work permit or certificate [which] of operation that has been cancelled or revoked pursuant to this code shall be surrendered [forthwith] to the commissioner within five business days of receipt of the notice of revocation.

§ 24-135 Transfer of work permits and certificates of operation. (a) [Any purported or attempted transfer of a] A work permit [automatically revokes the permit] shall not be transferred, except to the new property owner upon conveyance of the property. If the new owner employs a different registered design professional, that registered design professional shall recertify the application.

(b) [Any purported or attempted transfer of a] A certificate [automatically revokes the certificate, except that] of operation shall not be transferred, except to the new property owner upon conveyance of the [premises in which the equipment is located a certificate may be transferred to a person other than the person named in the certificate] property.

§ 12. Subchapter 5 of chapter 1 of title 24 of the administrative code of the city of New York is REPEALED.

§ 13. Chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new heading for subchapter 5 to read as follows:

SUBCHAPTER 5

ASBESTOS

§ 14. Section 24-146.1 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is renumbered section 24-136 of subchapter 5, section 24-146.2 of subchapter 6 of such title is renumbered section 24-137 of subchapter 5, section 24-146.3 of subchapter 6 of such title is renumbered section 24-138 of subchapter 5, and section 24-150.1 of subchapter 6 of such title is renumbered section 24-139 of subchapter 5.

§ 15. Section 24-136 of subchapter 5 of chapter 1 of title 24 of the administrative code of the city of New York, such section 24-136 as renumbered by section 14 of this local law, as added by local law number 76 for the year 1985, and as redesignated pursuant to section 14 of chapter 907 of the laws of 1985, paragraphs (5) and (8) of subdivision (a) as amended and paragraph (10) of subdivision (a) as added by local law number 101 for the year 1989, subdivision (c) as amended by local law number 38 for the year 2009, subdivision (d) as amended by local law number 46 for the year 1988, paragraph (6) of subdivision (d) as amended and paragraph (7) of subdivision (d) as added by local law number 101 for the year 1989, paragraph (1) of subdivision (e) as amended by local law number 21 for the year 1987, subparagraphs (a), (b) and (c) of paragraph (1) of subdivision (e) as amended by local law number 55 for the year 1991, paragraph (2) of subdivision (e) as amended by local law number 46 for the year 1988, paragraph (1) of subdivision (f) as amended by local law number 21 for the year 1989, subparagraph (a) of paragraph (1) of subdivision (f), paragraph (2) of subdivision (f), subdivision (h) as amended, subdivisions (i) and (j) as added, and subdivision (k) as relettered by local law number 46 for the year 1988, subdivisions (l) and (m) as added by local law number 101 for the year 1989, subdivision (n) as added by local law number 37 for the year 2009, second subdivision (n) as added by local law number 39 for the year 2009, and subdivision (o) as added by local law number 77 for the year 2009, is amended to read as follows:

§ 24-136 Asbestos work. (a) *The purpose of this subchapter is to protect public health and safety and the environment by minimizing the emission of asbestos fibers into the air of the city when buildings or structures that contain asbestos-containing material are renovated, altered, repaired, or demolished.*

(b) For purposes of this section, the following terms shall have the following meanings:

(1) "Asbestos" shall mean any hydrated mineral silicate separable into commercially usable fibers, including but not limited to chrysotile (serpentine), amosite (cumingtonite-grunerite), crocidolite (riebeckite), tremolite, anthrophyllite and actinolite.

(2) ["Asbestos inspection report" shall mean a report on the condition of a building or structure in relation to the presence and condition of asbestos therein] "*Asbestos Project notification*" shall mean a form filed to notify the department that an asbestos project will be taking place.

(3) "Asbestos investigator" shall mean an individual certified by the commissioner as having satisfactorily demonstrated his or her ability to identify the presence and evaluate the condition of asbestos in a building or structure.

(4) "Asbestos containing material" shall mean asbestos or any material containing more than one percent asbestos by weight.

(5) ["Asbestos removal plan" shall mean a plan which will be undertaken so as to prevent asbestos from becoming airborne in the course of an asbestos project as defined in this subdivision.

(6) ["Asbestos handling certificate" shall mean a certificate issued to a person who has satisfactorily completed an approved asbestos safety and health program.

(7) ["Approved safety and health program" shall mean a program certified by the commissioner providing training in the handling and use of asbestos containing

material, and safety and health risks inherent in such handling and use, together with methods for minimizing the exposure of workers and the public to asbestos fibers and, instruction in all applicable federal, state and local laws and regulations pertaining to asbestos related work.

(8) (6) "Asbestos project" shall mean any form of work performed in [connection with the alteration, renovation, modification, or demolition of] a building or structure[, as defined in section 27-232 of this code,] or in connection with the replacement or repair of equipment, pipes, or electrical equipment not located in a building or structure, which will disturb more than [two hundred sixty] *twenty-five* linear feet or more than [one hundred sixty] *ten* square feet of [friable] asbestos containing material or such smaller amounts as the commissioner may establish by [regulation] rule.

[(9) "Friable asbestos material" shall mean any asbestos or any asbestos containing material that can be crumbled, pulverized or reduced to powder when dry, by hand pressure.

(10) (7) "AHERA" shall mean the asbestos hazard emergency response act of nineteen hundred eighty-six, as amended (15 U.S.C. section [641] 2641, et seq.).

[(b) (8) "*Work Place Safety Plan*" shall mean documents prepared by a registered design professional and submitted to the department in order to obtain an asbestos abatement permit.

(c)(1) It shall be unlawful for any individual to handle [friable] asbestos material in the course of performing work for compensation on an asbestos project unless such individual is a holder of a current, valid asbestos handling certificate.

(2) It shall be unlawful to employ or otherwise permit any individual to handle [friable] asbestos material on an asbestos project when such person is not a holder of a current, valid asbestos handling certificate.

[(c) (d) The commissioner shall promulgate [regulations] rules establishing procedures for the safeguarding of the health and safety of the public [and all], including procedures to be followed by persons who work at or in the vicinity of an asbestos project. The commissioner, in consultation with the fire commissioner and the commissioner of buildings, shall promulgate rules [within one hundred twenty days of the enactment of this local law] which give further guidance to contractors on how to maintain egress at asbestos projects, as such projects are defined in the rules of the department, in accordance with all applicable laws, codes, rules and regulations.

[(d) (e) (1) The commissioner shall promulgate [regulations] rules establishing criteria for certifying individuals as eligible to receive an asbestos handling certificate [and for certifying programs as approved safety and health programs]. The commissioner may restrict the asbestos handling certificate as to certain supervisory and nonsupervisory functions and responsibilities.

(2) The commissioner shall promulgate [regulations] rules establishing criteria for certifying individuals as asbestos investigators.

(3) Any certificate issued under this subdivision shall be valid for a period of two years unless sooner suspended or revoked and may be renewed for a period of two years upon submission of proof satisfactory to the commissioner that the individual continues to meet the criteria established pursuant to this subdivision.

(4) [The initial certification of safety and health programs established pursuant to this section shall expire six months after the date of such certification. Safety and health program certificates may be renewed upon presentation to the commissioner of evidence satisfactory to the commissioner that the program continues to satisfy the criteria established for such safety and health programs. Such renewal shall be valid for a period of one year unless suspended or revoked before such time. The application to renew a certificate shall be submitted with the appropriate renewal fee thirty days prior to expiration of such certificate.

(5) The commissioner, after providing notice and an opportunity to be heard, may suspend or revoke any certificate issued under this subdivision where it is found that the holder has failed to comply with this section or any rules or regulations promulgated thereunder, or that a person other than the authorized holder has made use of such certificate to work on an asbestos project, or that the holder of such certificate has been convicted of any crime related to asbestos.

[(6) (5) The commissioner shall charge a fee not to exceed [one] *two* hundred dollars to process the application to issue or renew an asbestos handling certificate and a fee not to exceed [two hundred fifty] *five hundred* dollars to process the application of an individual as an asbestos investigator.

[(7) (6) The commissioner may suspend the processing of applications for certification of individuals as asbestos handlers[,] or investigators[, planners, designers, and other titles for which training requirements are specified by AHERA, and the certification of safety and health programs] when the commissioner determines that regulations promulgated pursuant to article thirty of the labor law for the certification of such individuals [and for the certification of safety and health programs] are essentially equivalent to [regulations] rules promulgated by the commissioner, and that such certifications are in fact being issued.

[(e)(1)a.)(f)(1) The commissioner shall prescribe forms for and the content of asbestos [inspection reports to be submitted in accordance with the provisions of subdivisions a, b or c of section 27-198.1 of article nineteen of subchapter one of chapter one of title twenty-seven of the code. Such reports] *project notifications to be submitted to the department. Such notifications* shall require the furnishing of information deemed relevant by the commissioner for evaluating[, in the case of an asbestos project,] the scope, complexity and duration of [such project, or if not an asbestos project, information deemed relevant by the commissioner for evaluating the samples taken and the validity of sampling techniques utilized in preparing such inspection report,] *the project* and the compliance with the provisions of this section, any [regulations] rules promulgated thereunder, and any applicable federal[and or],

state, or local laws, rules or regulations.

[b.An asbestos inspection report regarding an asbestos project, where the work to be performed will cause the generation of waste which is asbestos containing material, shall include: (i) the amount of such waste which will be generated; (ii) the name of the person who will remove the waste and the number of the industrial waste transporter permit issued to such person pursuant to article twenty-seven of the environmental conservation law; and (iii) the site at which such waste will be disposed of.

c.If at the time the asbestos inspection report for an asbestos project is required to be filed, any of the information required under subparagraph b of this paragraph is not known, an amended report shall be filed thereafter with the department as soon as such information becomes known. Provided no person shall authorize the transport of waste which is asbestos containing material unless all information required in paragraph b has been filed with the department not less than five business days prior to the time such waste is transported. Provided further, however, the commissioner may for good cause shown and on such terms and conditions as he or she deems reasonable and necessary permit the filing of such report less than five days prior to the time such waste is transported.

d.Copies of all asbestos inspection reports received by or filed with the department and any amendments thereto indicating that waste which is asbestos containing material will be generated shall be forwarded to the department of sanitation.

(2)The commissioner may by regulation also require for any work which is not subject to the provisions of subdivision a of section 27-198.1 of article nineteen of subchapter one of chapter one of title twenty-seven of the code and for which a permit is required under article nine of subchapter one of chapter one of such title that an asbestos investigator certify that the work to be performed will not constitute an asbestos project or that an asbestos inspection report be completed and submitted to the department of buildings in conjunction with an application for such permit. The commissioner may exclude from any regulation promulgated pursuant to this paragraph certain types of work within a permit category.

(f) (1) a.The commissioner shall promulgate regulations establishing the requirements of an asbestos removal plan to be submitted in accordance with the provisions of subdivision c of section 27-198.1 of article nineteen of subchapter one of chapter one of title twenty-seven of the code and shall specify the type or types of demolition or alteration work for which such submission shall be required. Plans submitted shall be approved by the commissioner only upon a satisfactory showing that such plan will effect compliance with all applicable provisions of this section, regulations promulgated thereunder, all applicable federal or state laws or regulations and, in addition, that to the extent feasible, the removal of asbestos will be completed prior to the commencement of any demolition work. No plan shall be considered for approval unless accompanied by the payment of a fee established by the commissioner not to exceed eighteen hundred dollars.

b.Such plan, where] (2) If the work to be performed will cause the generation of waste which is asbestos containing material, *the asbestos project notification* shall include: (i) [the amount of such waste which will be generated; (ii) the name of the person who will remove the waste and the number of *the* industrial waste transporter permit issued to such person pursuant to article twenty-seven of the environmental conservation law; and [(iii)] (ii) the site at which such waste will be disposed of.

[c.If at the time asbestos removal plan is required to be filed, any of the information required under subparagraph b of this paragraph is not known, an amended plan shall be filed thereafter with the department as soon as such information becomes known. Provided no person shall authorize the transport of waste which is asbestos containing material unless all information required in paragraph b has been filed with the department not less than five business days prior to the time such waste is transported. Provided further, however, the commissioner may for good cause shown and on such terms and conditions as he or she deems reasonable and necessary permit the filing of such amended plan less than five days prior to the time such waste is transported.

d.Copies of all asbestos removal plans filed with the department and any amendments thereto indicating that waste which is asbestos containing material will be generated shall be forwarded to the department of sanitation.

(2)The commissioner shall act within a reasonable time not to exceed sixty days on an application for approval of an asbestos removal plan, and shall notify the applicant in writing of his or her approval or disapproval of the application. If an application is disapproved, the commissioner shall set forth his or her objections in the notice of disapproval. Within sixty days after service on the applicant of the notice of disapproval, the applicant may request the commissioner to reconsider the application by responding in writing to the stated objections. The commissioner shall consider the applicant's responses to his or her objections, and shall notify the applicant in writing within a reasonable time, not to exceed sixty days, of his or her approval or denial of the application. Failure to respond to the stated objections or request an extension of time within sixty days after service of the notice of disapproval shall be deemed a denial of the application.]

(g)The commissioner may promulgate any [regulations] *rules* he or she deems necessary to protect [the] *public* health and safety [of workers] and the [public] *environment* in connection with work not constituting an asbestos project in which asbestos is or is likely to be disturbed.

(h) [A notice or] *An* order to stop work may be issued by the commissioner, or his or her authorized representative, at any time when it is found that work is being performed in violation of the provisions of this section, or any rules or regulations promulgated thereunder and which poses a threat to human safety. *Upon issuance of a stop work order by the commissioner, all work shall immediately stop unless otherwise specified.* Such [notice or] order may be given orally or in writing to the

owner, lessee or occupant of the property involved, or to the agent of any of them, or to the person or persons performing the work and may require all persons in or about the building or premises to vacate the same forthwith, and also require such work to be done as, in the opinion of the commissioner, may be necessary to remove the danger therefrom. [Such notice or order shall be valid for a period of time not to exceed seventy-two hours and may be extended only upon application to the board in accordance with the provisions of section 24-178 of this code] *A verbal stop work order shall be followed promptly by a written order and shall include the reason for the issuance of the stop work order. A stop work order issued pursuant to this subdivision may be appealed in accordance with the rules of the department, and the commissioner shall provide notice and an opportunity to be heard within fourteen days of the filing of such appeal. A stop work order shall be lifted if, upon appeal, the commissioner determines that the issuance of such order was not proper, or when it has been determined that the condition that gave rise to its issuance has been corrected.*

(i)The commissioner may grant individual variances for asbestos projects at specific sites, from particular requirements related to asbestos prescribed by this code and [regulations] *rules* or orders of the commissioner promulgated thereunder, whenever it is found, upon presentation of adequate proof, that compliance with such requirements would impose unreasonable hardship. In granting a variance the commissioner may impose such conditions as the policies of this code may require [and shall publish in the City Record no later than seven days after the granting of such variance a statement of the reasons leading to his or her decision].

(j)[The commissioner may establish a fee to process the applications listed in this subdivision as follows:

(1)For any asbestos project not requiring a permit or plan approval issued by the department of buildings and for which an asbestos inspection report or asbestos removal plan is required by this section and by regulations promulgated pursuant thereto to be filed with the commissioner, the commissioner shall be entitled to charge a fee not to exceed twelve hundred dollars for the asbestos inspection report or eighteen hundred dollars for the asbestos removal plan.

(2)To process an application for a variance submitted in accordance with subdivision (j) of this section, the department shall be entitled to charge a fee as established by the commissioner not to exceed eighteen hundred dollars.

(3)The commissioner may establish a fee not to exceed the following amounts for processing applications for the certification or renewal of certification of safety and health programs established pursuant to this section:

PROGRAM	FEE	PER
PROGRAM		
Asbestos Handler	\$1500.00	
Asbestos Supervisor	\$300.00	
Asbestos Investigator	\$750.00	
Biennial Review Course	\$500.00	
Refresher Course	\$300.00	

(k)The commissioner may promulgate any additional regulations he or she deems necessary to effectuate the purposes of this section.

(l)The commissioner shall promulgate regulations requiring asbestos investigators to submit on a timely basis to the commissioner the results of any asbestos survey or investigation for asbestos conducted in accordance with this section and with regulations promulgated pursuant thereto if, during or as a result of such asbestos survey or investigation, the asbestos investigator discovers asbestos containing material. The commissioner may require the submission of the asbestos investigator's findings whether or not an asbestos project is planned or scheduled.

(m) (1)In addition to submission of the asbestos [inspection report or asbestos removal plan] *project notification*, the commissioner may by [regulation] *rule* require additional notification to the department prior to the start of the asbestos project. No person shall cause or permit any abatement of asbestos containing material without compliance with any such additional notification requirements.

(2)[Except as specified in subparagraph c of paragraph one of subdivision (e) and subparagraph c of paragraph one of subdivision (f) of this section, the] *The* commissioner may prescribe by [regulation] *rule* the circumstances under which an asbestos [inspection report or asbestos removal plan] *project notification* may be amended, and the circumstances under which a new [asbestos inspection report or asbestos removal plan] *project notification* shall be submitted to the department. The commissioner may consider the extent of the proposed amendment, including but not limited to change in floor size, quantity of asbestos containing material involved, project phasing, project duration, and replacement of abatement contractor.

(n) (k)The commissioner shall adopt rules specifying the standards for the construction of temporary structures for asbestos abatement activities. In addition to any other requirements, such rules shall provide that materials used in the construction of such structures be non-combustible or flame resistant in compliance with reference standard NFPA 255-06 or NFPA 701-99, as such standards may be modified by local law or by the [Department] *department* of [Buildings] *buildings* pursuant to applicable rules.

(n) (l)Sharing the results of inspections. The commissioner, in coordination with the commissioner of [the department of] buildings and the fire commissioner, shall establish a procedure to share information regarding violations issued pursuant

to this section, in accordance with the requirements of section 28-103.7.1 of the [administrative] code [of the city of New York].

[(o)] (m)(1) No asbestos abatement activities shall be performed within a building concurrently with demolition work for the full demolition of such building or concurrently with the removal of one or more stories of such building, except as provided in this subdivision and the rules of the department.

(2) Prior to the issuance of a full demolition permit by the department of buildings, the owner of the building to be demolished shall submit to the department of buildings (i) certification, in a form to be provided by the rules of the department of environmental protection, that the building is free of asbestos containing material or, (ii) documentation that the commissioner of environmental protection has issued a variance from this requirement pursuant to subdivision (i) of this section and the rules of the department, subject to the additional conditions set forth in paragraph four of this subdivision.

(3) Prior to the issuance of an alteration permit by the department of buildings to remove one or more stories of a building, the owner of the building shall submit certification to the department of buildings in a form to be provided by the rules of the department of environmental protection (i) that the stories to be removed are free of asbestos containing material and that no abatement activities will be performed anywhere in the building concurrently with the removal work authorized by such permit or (ii) that the commissioner of environmental protection has issued a variance from these requirements pursuant to subdivision (i) of this section and the rules of the department, subject to the additional conditions set forth in paragraph four of this subdivision.

(4) Prior to granting any variance pursuant to subdivision (i) of this section relating to the full demolition of a building or the removal of one or more stories of a building that would permit the performance of abatement activities concurrent with such demolition or removal work within the same building, the commissioner of environmental protection shall notify and consult with the commissioner of buildings and the fire commissioner regarding the appropriate safeguards for such work. Notwithstanding any inconsistent provision of section [24-146.3] 24-138 of the [administrative] code, where a variance is issued to perform abatement activities and demolition or removal work concurrently within the same building, the asbestos abatement activities may not be performed without an asbestos permit issued pursuant to section [24-146.3] 24-138, regardless of whether such a permit would otherwise be required to perform such activity.

(5) The commissioner shall post on-line within seven days notice of any variance granted under this subdivision with a statement of the reasons leading to his or her decision.

(6) This subdivision shall not apply to full demolition or the removal of one or more stories performed as emergency work pursuant to article 215 of chapter 2 of title 28 of the administrative code where the emergency warrants immediate commencement of the work or full demolition with asbestos in place authorized in accordance with 12 NYCRR 56-11.5.

(n) *The owner of a building or structure where asbestos abatement activity occurs or where asbestos-containing material is disturbed shall be responsible for the performance of the work by the agent, contractor, employee, or other representative of such owner.*

§ 16. Subdivisions (a), (d) and (g) of section 24-138 of subchapter 5 of chapter 1 of title 24 of the administrative code of the city of New York, such section 24-138 as renumbered by section 14 of this local law, subdivisions (a), (d) and (g) of such section as added by local law number 37 for the year 2009, are amended to read as follows:

(a) The commissioner shall establish a permit requirement for asbestos projects[, as defined in the rules of the department,] affecting the safety of a building. On and after a date to be provided in the rules establishing such a permit requirement, it shall be unlawful to commence or engage in such a project unless the commissioner has issued an abatement permit for such project.

(d) The commissioner may, on written notice to the permit holder, revoke any abatement permit for failure to comply with the provisions of this section or section [24-146.1] 24-136 of this code or the rules adopted pursuant thereto or whenever there has been any false statement or any misrepresentation as to a material fact in the application or other documents submitted to the department upon the basis of which such permit was issued; or whenever an abatement permit has been issued in error and conditions are such that the permit should not have been issued. Such notice shall inform the permit holder of the reasons for the proposed revocation and that the applicant has the right to present to the commissioner or his or her representative within 10 business days of delivery of the notice by hand or 15 calendar days of mailing of the notice, information as to why the permit should not be revoked. The commissioner may immediately suspend any permit without prior notice to the permit holder when the commissioner has determined that an imminent peril to life or property exists. The commissioner shall forthwith notify the permit holder that the permit has been suspended and the reasons therefore, that it is proposed to be revoked, and that the permit holder has the right to present to the commissioner or his or her representative within 10 business days of delivery of the notice by hand or 15 calendar days of mailing of the notice information as to why the permit should not be revoked.

(g) The permittee shall comply with section [24-146.1] 24-136 of this code and the rules of the department adopted pursuant to such section and with article 30 of the labor law and rules adopted pursuant to such article. The commissioner may issue a notice or order to stop work in accordance with the procedure set forth in subdivision (h) of section [24-146.1] 24-136 of this code at any time when work is being performed in violation of this section or section [24-146.1] 24-136 of this code or rules adopted pursuant to such sections and such work poses a threat to human safety.

§ 17. Subchapter 5 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-140 to read as follows:

§ 24-140 *Spraying of asbestos prohibited. No person shall cause or permit the spraying of any substance containing asbestos in or upon a building or other structure during its construction, alteration or repair.*

§ 18. Section 24-141 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-141 Emission of *odorous* air [contaminant (including odorous air contaminant) or water vapor; detriment to person, property or plant and animal life] *contaminants*. No person shall cause or permit the emission of *an odorous* air contaminant *or steam*, [including odorous air contaminant, or water vapor] if the air contaminant or [water vapor] *steam* causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or causes or may cause damage to property or business, or if it reacts or is likely to react with any other air contaminant or natural air, or is induced to react by solar energy to produce a solid, liquid or gas or any combination thereof which causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or which causes or may cause damage to property or business.

[(a)] The prohibition of this section includes, but is not limited to, emission of the following air contaminant:

(1) Air contaminant that contain cadmium, beryllium, mercury or any compounds thereof;

(2) Air contaminant containing asbestos, except where such an air contaminant is emitted from the brake lining of a motor vehicle during normal use.

(b) The prohibition of this section includes, but is not limited to, emissions of odorous air contaminant from the following sources:

- (1) Aircraft engines,
- (2) Ammonia, bleaching powder or chlorine manufacture,
- (3) Asphalt manufacture or refining,
- (4) Blood processing,
- (5) Bag cleaning,
- (6) Coal tar products manufacture,
- (7) Compost heaps,
- (8) Crematory,
- (9) Creosote treatment or manufacture,
- (10) Diesel engines,
- (11) Disinfectants manufacture,
- (12) Distillation of bones, coal or wood,
- (13) Dyestuff manufacture,
- (14) Fat rendering,
- (15) Fertilizer manufacture and bone grinding,
- (16) Fish processing,
- (17) Glue, size or gelatin manufacture,
- (18) Incineration or reduction of garbage, dead animals, offal or refuse,
- (19) Oiled rubber or leather goods manufacture,
- (20) Paint, oil, shellac, turpentine or varnish manufacture,
- (21) Paper and pulp manufacture,
- (22) Petroleum refining,
- (23) Plastic or resin manufacture,
- (24) Processing of food stuffs,
- (25) Rubber manufacture,
- (26) Shoe-blackening manufacture,
- (27) Soap and detergent manufacture,
- (28) Slaughter-houses,
- (29) Sulfuric, nitric or hydrochloric acid manufacture,
- (30) Tanning, curing or storage of rawhides or skins,
- (31) Tar distillation or manufacture,
- (32) Tar roofing or waterproofing manufacture.

(c) The prohibition of this section, however, shall not include emissions of the air contaminants in paragraph (a) when restricted to the following quantities:

- (1) cadmium-0.15 micrograms per cubic meter.
- (2) beryllium-10 nanograms per cubic meter.
- (3) mercury-0.1 microgram per cubic meter.
- (4) asbestos-27 nanograms per cubic meter.]

§ 19. Section 24-142 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-142 Emission of air [contaminant] *contaminants*; standard smoke chart. (a) No person shall cause or permit the emission of *an* air contaminant of: (1) A density which appears as dark or darker than number two on the standard smoke chart or of an opacity which obscures vision to a degree equal to or greater than smoke of number two density on the standard smoke chart; or

(2) A density which appears as dark or darker than number one on the standard smoke chart, but less than number two on said chart, or of such opacity as to obscure vision to a degree equal to or greater than smoke of number one density on the standard smoke chart, but less than number two on said chart, if such an emission continues for longer than two minutes in the aggregate in any sixty minute period.

(b) (1) *The density or opacity of an air contaminant shall be measured in accordance with the procedures set forth in "Method 9 - Visual determination of the*

opacity of emissions from stationary sources," Appendix A-4 to part sixty of title forty of the code of federal regulations.

(2) The density or opacity of an air contaminant shall be measured at the point of its emission[, except:

(1)] *provided that:*

(i) When the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission; or

[(2)] (ii) In the case of an air contaminant emitted from a source outside of the city of New York, it shall be measured after the plume crosses the jurisdictional boundary of the city of New York [city].

§ 20. Section 24-143 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-143Emission of air contaminant from internal [or external] combustion engine; visibility standard. No person shall cause or permit the emission of a visible air contaminant from the internal [or external] combustion engine of:

(a) A motor vehicle while the vehicle is stationary for longer than ten consecutive seconds; or

(b) A motor vehicle after the vehicle has moved *continuously* for more than ninety yards [from a place where the vehicle was stationary].

(c) *The operator or registered owner of a vehicle in violation of this section shall be responsible for such violation.*

§ 21. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-143.1 to read as follows:

§ 24-143.1 *Motorcycle emission control. Any motorcycle manufactured in the year two thousand thirteen or thereafter that is present in the city of New York shall display on the exhaust system of such motorcycle the emission label required pursuant to section 205.169 of title forty of the code of federal regulations.*

§ 22. Section 24-144 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is REPEALED.

§ 23. Section 24-145 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-145Emission of [particulate matter from refuse burning equipment and fuel burning equipment; weight-rate standard. (a) No person shall cause or permit the emission of particulate matter from refuse burning equipment and fuel burning equipment if the emission from such equipment is in violation of the provisions of section 24-141 or 24-142 of this code or if the particulate matter emitted as measured in the flue exceeds the following limits:

(1) In refuse burning equipment, the permissible particulate rate shall be as provided in figure four of section 24-153 of this code. If two or more refuse burning units are connected to a single flue, the total capacity rating of all refuse burning units connected to the flue shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted. If a single refuse burning unit is manifold to two or more flues the capacity rating of the single refuse burning unit shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted;

(2) In fuel burning equipment in which the preponderance of the particulate matter emitted is caused by the burning of fuel, 0.40 pounds for each million Btu per hour input if the equipment has a capacity rating of ten million Btu per hour or less. If the capacity rating of the fuel burning equipment is more than ten million Btu per hour, the amount of permissible emissions of particulate matter shall be as provided in figure three of section 24-153 of this code, as measured on a dry basis.

(b) If two or more fuel burning units are connected to a single flue, the total capacity rating of all fuel burning units connected to the flue shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted. If a single fuel burning unit is manifold to two or more flues the capacity rating of the single fuel burning unit shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted] *particulates.*

(a) *Refuse burning equipment. (1) Refuse burning equipment used at a crematorium that is covered by subpart 219-4 of part two-hundred nineteen of title six of the New York codes, rules and regulations, must meet the emission limits for particulates set forth in section 219-4.3 of such title.*

(2) *Refuse burning equipment used to burn infectious waste that is covered by subdivision a of section 219-3.3 of title six of the New York codes, rules and regulations must meet the emission limits for particulates set forth in such subdivision.*

(3) *Refuse burning equipment used to burn waste material for the purpose of energy generation or that is not otherwise covered under paragraph one or two of this subdivision, and that is covered by subdivision b of section 219-3.3 of title six of the New York codes, rules and regulations must meet the emission limits for particulates set forth in such section.*

(b) *Equipment used in a process. (1) Equipment used in a process that is covered by section 212.3 of title six of the New York codes, rules and regulations must meet the emission limits for particulates set forth in such section.*

(2) *Equipment used in a process that is covered by section 212.4 of title six of the New York codes, rules and regulations must meet the emission limits for particulates set forth in such section.*

(c) *Fuel burning equipment that meets the definition of a new oil-fired boiler, as such term is used in subpart JJJJJ of part sixty-three of title forty of the code of federal regulations, with a heat input capacity of ten million Btu per hour or greater and that does not meet the definition of a seasonal boiler or limited-use boiler, as such terms are used in such subpart, must meet emission limits for particulate matter applicable to such new oil-fired boilers set forth in table one to such subpart.*

§ 24. Section 24-146 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-146Preventing [particulate matter] *dust* from becoming air-borne; [spraying of asbestos prohibited;] spraying of insulating material and demolition regulated. (a) *The purpose of this section is to protect public health and safety and the environment by minimizing the emission of dust into the air of the city.*

(b) No person shall cause or permit [particulate matter to be handled,] *any material that may generate dust to be* transported or stored without taking such precautions as may be ordered by the commissioner *or as established by the rules of the department* to prevent [particulate matter] *dust* from becoming air-borne.

[(b)] Six months after August twentieth, nineteen hundred seventy-one no person shall cause or permit the spraying of any substance containing asbestos in or upon a building or other structure during its construction, alteration or repair, except if permitted by a variance granted pursuant to subdivision (e) of section 24-110 of this chapter.]

(c) No person shall cause or permit a building or its appurtenances or a road to be constructed, altered or repaired without taking such precautions as may be ordered by the commissioner *or as established by the rules of the department* to prevent [particulate matter] *dust* from becoming air-borne.

(d) No person shall cause or permit [untreated open areas located within the boundaries of a zoning lot] *any use*, as defined by section 12-10 of the zoning resolution of the city of New York, to be *implemented or maintained* without taking reasonable precautions *as established by the rules of the department, including, but not limited to, planting or covering*, to prevent [particulate matter] *dust* from becoming air-borne.

(e) No person shall cause or permit the spraying of any insulating material, not otherwise prohibited by this [section] *code*, in or upon any building or other structure during its construction, alteration or repair, unless he or she complies with the [following precautions: (1) Before the start of spraying operations, all floor areas shall be shoveled clean. Before the application of insulating material commences, the floor of the areas shall be cleared of all objects, material and equipment other than that employed in the application of the insulating material, or all objects, material, and equipment shall be covered with plastic or other approved tarpaulins in a manner that precludes the subsequent dispersal of particulate matter.

(2) The entire floor, or the part of the floor to be insulated, shall be enclosed with plastic or other approved tarpaulins in a manner which shall preclude the escape of particulate matter from the enclosure. All interior open areas, such as elevator shafts and stairwells shall be enclosed in a manner which shall prevent the escape of particulate matter from the working area. Stack effect of the shafts and stairwells shall be considered in providing proper enclosures. An enclosure will be considered satisfactory only if visible insulating material cannot escape from the enclosure.

(3) Wet insulating material which has fallen to the floor shall be swept up to prevent dispersal of dried material. Under no condition shall this material be removed later than at the end of the working day. Swept-up material shall be placed in a heavy plastic bag strong enough to resist tearing or breaking under normal handling conditions and clearly marked as containing insulating material waste. The contents of the aforementioned plastic bags shall not be transferred to another container. The plastic bags shall be placed upon a vehicle for disposal at a site approved by the commissioner.

(4) All floors shall be vacuumed shortly after drying. The contents of the vacuum bag shall be carefully placed in a container of the type described in paragraph three of this subdivision and shall thereafter be placed on a vehicle for removal and disposal at a site approved by the commissioner.

(5) The materials used to form the enclosure shall be thoroughly vacuumed upon completion of the application of the insulation in the area. The entire floor area and ledges and surfaces including tarpaulins upon which waste insulation material may have fallen, shall then be vacuumed or revacuumed before removal of the enclosures.

(6) Enclosures shall not be dismantled until the area has been thoroughly vacuumed after completion of spraying and clean-up.

(7) All areas used for opening bags containing insulating material and/or changing of hoppers shall be enclosed in such a manner that insulating material shall not be permitted to escape from the immediate area in which such activity takes place.

(8) Signs shall be posted outside enclosures warning persons of the hazards of entering the enclosure without appropriate apparel.

(9) All persons involved in the spraying of insulating material at the site must be furnished with suitable coveralls which must be left at the site. No person shall be permitted in an area in which spraying or handling of insulating material has taken place until the final vacuuming referred to in paragraph five of this subdivision has been accomplished, unless such person is furnished with or wears coveralls of the type described herein. Facilities shall be provided and procedures instituted and supervised that preclude the removal and dispersal of insulating material from the construction site on the clothing or other appurtenances of persons leaving the area.

(10) Any plenum or other structures coated with insulating material which are intended for use in circulation of air in the building must be thoroughly cleaned of all debris, dust and waste insulation. All applied insulation material within a plenum or duct must be coated with a sealant approved by the commissioner which precludes exposure of the material to the circulating air whenever the commissioner after ordering tests to be conducted by the manufacturer in accordance with section 24-107, determines that the insulation material needs such a sealant.

(11) A person shall be assigned the full time responsibility of supervising the spraying and related operations to assure that no insulating material is released from the construction site.

(12) In case of emission of insulation material from the construction site, immediate steps shall be taken to cause the cessation of such emissions by either effective control measures or work stoppage at the source of the emissions. There shall then be immediate and complete clean-up of all material that has escaped the construction site by measures that will insure that no further dispersal of any insulating material into the atmosphere can occur] *rules of the department regarding precautions for the spraying of insulating material.*

(f) No person shall cause or permit a building or other structure to be demolished, [except pursuant to chapter one of title seventeen or article eight of subchapter three of chapter one of title twenty-six of the code,] unless he or she complies with the following precautions:

(1) Demolition by toppling of walls shall not occur except when approved by the commissioner pursuant to section 24-109 of this code, or when conducted by or on behalf of a city agency pursuant to chapter one of title seventeen of the code or pursuant to an order issued by the department of buildings under article two hundred fifteen of chapter two of title twenty-eight of the code.

(2) Before the demolition of any section of wall, floor, roof, or other structure, [adequate] necessary wetting procedures to lay the dust or other precautions to prevent dust from becoming air-borne, as set forth in this section and the rules of the department, shall be employed. All debris shall be thoroughly wetted before loading and while dumping into trucks, other vehicles or containers. In all cases and at all stages of demolition, wetting procedures shall be adequate to lay the dust. Trucks shall be adequately covered or enclosed to prevent dust dispersion while in transit to point of disposal.

(3) No structural members shall be dropped or thrown from any floor but shall be carefully lowered to ground level [by hoists].

(4) [Effective January first, nineteen hundred seventy-two, debris] Debris shall not be dropped or thrown outside the exterior walls of the building from any floor to any floor below. In buildings twelve stories or greater in height any debris [shall be] transported outside the exterior walls of the building shall be transported from the upper floors via enclosed, dust-tight chutes or via buckets or other containers. Where chutes or shaftways are used either inside or outside the building, a water soaking spray shall be employed to saturate the debris before it reaches the point of discharge from the chute or shaftway. Where buckets or other containers are used, the debris shall be adequately wetted to preclude dust dispersion when buckets or other containers are dumped.

(5) [Effective January first, nineteen hundred seventy-two, in] (i) In the event particulate matter becomes airborne for a continuous period of fifteen minutes, despite the application of the [above] procedures set forth in this section and the rules of the department, or because freezing temperatures preclude the use of water for laying the demolition dust, the work of demolition shall cease at once until other adequate measures can be taken. Alternate] and procedures shall be evaluated by the commissioner before initiation thereof, provided, however, that if the demolition work is being conducted by or on behalf of a city agency pursuant to chapter one of title seventeen of the code or pursuant to an order issued by the department of buildings under article two hundred fifteen of chapter two of title twenty-eight of the code and freezing temperatures preclude the use of water, then the demolition work may continue as long as necessary to complete the demolition process.

(ii) A stop work order may be issued by the commissioner, or his or her authorized representative, at any time when it is found that work is being performed in violation of the provisions of this section, or any rules promulgated thereunder, and such work poses a threat to human safety. Upon issuance of a stop work order by the commissioner, all work shall immediately stop unless otherwise specified. Such order may be given orally or in writing to the owner, lessee or occupant of the property involved, or to the agent of any of them, or to the person or persons performing the work. A verbal order shall be followed promptly by a written order and shall include the reason for the issuance of a stop work order. The order may require all such work to be done as may be necessary, in the opinion of the commissioner, to remove the danger therefrom.

(iii) A stop work order issued pursuant to subparagraph (ii) of this paragraph may be appealed in accordance with the rules of the department, and the commissioner shall provide notice and an opportunity to be heard within fourteen days of the filing of such appeal. A stop work order shall be lifted if, upon appeal, the commissioner determines that the issuance of such order was not proper, or upon the submission of proof satisfactory to the commissioner that the requirements of such order have been satisfied.

§ 25. Section 24-147 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-147 Emission of nitrogen oxides. [No person shall cause or permit emission of an air contaminant:

(a) from a boiler with a capacity of five hundred million Btu per hour or more and completed after August twentieth, nineteen hundred seventy-one, if the air contaminant emitted has nitrogen oxides content of more than one hundred parts per million by volume of undiluted emissions at ten percent excess air.

(b) from a boiler with a capacity of five hundred million Btu per hour or more and completed before August twentieth, nineteen hundred seventy-one, if the air contaminant emitted has nitrogen oxides content of more than one hundred fifty parts per million by volume of undiluted emissions at ten percent excess air]

(a) No person shall cause or permit the use or operation of fuel burning equipment that is covered by subpart 227-2 of part two hundred twenty-seven of title six of the New York codes, rules and regulations in a manner inconsistent with the requirements regarding emission limits for nitrogen oxides set forth in such subpart.

(b) The commissioner may establish rules regulating nitrogen oxides emissions

from boilers not regulated under subpart 227-2 of part two hundred twenty-seven of title six of the New York codes, rules and regulations.

§ 26. Section 24-148 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-148 Architectural coatings; solvents. [(a) After July first, nineteen hundred seventy-two, no person shall sell, offer for sale, apply, evaporate, dry, dilute or thin any architectural coating containing a photochemically reactive solvent.

(b) For the purposes of this section, a photochemically reactive solvent is any solvent with an aggregate of more than twenty percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

1. A combination of hydrocarbons, alcohols, aldehydes, esters, ethers or ketones having an olefinic or cyclo-olefinic type of unsaturation: five percent;

2. A combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: eight percent;

3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, or toluene: twenty percent] No person shall use an architectural coating that is covered by part two hundred five of title six of the New York codes, rules and regulations unless such architectural coating is in compliance with the volatile organic compound limits set forth in section 205.3 of such part.

§ 27. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.1 to read as follows:

§ 24-149.1 Outdoor wood boilers. (a) No person shall burn any fuel in an outdoor wood boiler except clean wood, provided that newspaper or other non-glossy, non-colored paper may be used as starter fuel.

(b) No person shall operate an outdoor wood boiler so as to cause an emission that (1) activates a smoke detector on an adjoining property; (2) impairs visibility on a public street or highway; or (3) causes a visible plume that comes into contact with a building on an adjacent property.

(c) No person shall operate an outdoor wood boiler with a thermal output rating of two hundred fifty thousand Btu/h or less, unless such outdoor wood boiler:

(1) Is in compliance with all applicable certification standards set forth in section 247.8 of title six of the New York codes, rules and regulations;

(2) Is located at least one hundred feet from the nearest property boundary line; and

(3) Is equipped with a permanent stack extending at least eighteen feet above ground level.

(d) No person shall operate an outdoor wood boiler with a thermal output rating in excess of two hundred fifty thousand Btu/h.

§ 28. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.2 to read as follows:

§ 24-149.2 Fireplaces. (a) Definitions. As used in this section:

“Existing fireplace” means a fireplace that has been installed before July first, two thousand fourteen.

“New fireplace” means a fireplace that has been installed on or after July first, two thousand fourteen.

“Treated firewood” shall have the same meaning as set forth in subdivision thirteen of section 192.5 of title six of the New York codes, rules and regulations.

(b) No person shall operate a fireplace as a primary source of heat.

(c) No person shall operate any new fireplace unless it is operated solely on natural gas or on renewable fuel, as such term is defined in this code or as otherwise defined by the rules of the department for the purposes of implementing this subdivision.

(d) No person shall operate any existing fireplace unless it is operated with the use of treated firewood having a moisture content of twenty percent or less by weight, renewable fuel, as such term is defined in this code or as otherwise defined by the rules of the department for the purposes of implementing this subdivision, or such other material as may be designated by the rules of the department.

(e) No person shall operate any fireplace unless such fireplace is in compliance with applicable federal emissions standards for particulate matter as set forth in section 60.532 of title forty of the code of federal regulations.

§ 29. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.3 to read as follows:

§ 24-149.3 Wood burning heaters. (a) No person shall operate any wood burning heater as a primary source of heat.

(b) No person shall operate any wood burning heater unless it is operated solely on renewable fuel, as such term is defined in this code or as otherwise defined by the rules of the department for the purposes of implementing this subdivision.

§ 30. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.4 to read as follows:

§ 24-149.4 Commercial char broilers. (a) Definitions. As used in this section:

“New” means installed on or after July first, two thousand fourteen.

“Existing” means installed before July first, two thousand fourteen.

(b) No person shall operate any new commercial char broiler or any existing chain-driven commercial char broiler to cook more than eight hundred seventy-five pounds of meat, including but not limited to beef, lamb, pork, poultry, fish, or seafood, per week unless such commercial char broiler is equipped with an emissions control device that meets the requirements of the rules of the department.

(c) On or after July first, two thousand seventeen, the commissioner may promulgate rules regulating emissions from existing under-fired commercial char

broilers or new commercial char broilers used to cook less than eight hundred seventy-five pounds of meat per week.

(d) The operator of a commercial char broiler shall maintain records regarding the dates of installation, replacement, cleaning, and maintenance of any emissions control device. Such records shall be made available to the department upon request.

(e) The operator of an existing commercial char broiler that is used to cook less than eight hundred seventy-five pounds of meat per week shall maintain records showing the amount of meat cooked each week and the amount of meat purchased per month. Such records shall be made available to the department upon request.

§ 31. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.5 to read as follows:

§ 24-149.5 Cook stoves. (a) Definitions. As used in this section:

“New” means installed on or after July first, two thousand fourteen.

“Existing” means installed before July first, two thousand fourteen.

(b) No person shall use a new cook stove for the preparation of food intended for on-site consumption or retail purchase without the use of an emission control device for odors, smoke and particulate matter that meets the requirements for such system as established by the rules of the department.

(c) No person shall use an existing cook stove unless such cook stove is in compliance by January first, two thousand twenty with the requirements for control systems established by the commissioner pursuant to subdivision (b) of this section.

§ 32. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.6 to read as follows:

§ 24-149.6 Stationary generators. (a) Any stationary generator that is registered with the department for the first time on or after July first, two thousand fourteen shall be equipped with an engine certified to the tier four emissions standards established by the United States environmental protection agency as set forth in table one of section 1039.101 of title forty of the code of federal regulations or to any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent.

(b) On or after January first, two thousand eighteen, the registration for a stationary generator will be renewed only if such stationary generator is equipped with an engine certified to the tier four emissions standards established by the United States environmental protection agency as set forth in table one of section 1039.101 of title forty of the code of federal regulations or to any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent.

(c) Notwithstanding subdivisions (a) and (b) of this section, this section shall not apply to any stationary generator that is used exclusively at a construction site.

§ 33. Section 24-150 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is REPEALED.

§ 34. Subdivision (d) of section 24-152 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

(d) This section shall not apply to [refuse burning equipment,] refuse compacting equipment and fuel burning equipment [which] that primarily [serve] serves residents of a building or structure [which] that is occupied in whole or in part as the residence of one or more persons, or [which] that is occupied for transacting business, for rendering professional services, or for rendering public or civic services[, or for performing other commercial services that may incidentally involve the storage of limited quantities of stocks of goods for office use or purposes].

§ 35. Section 24-153 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§ 24-153 Emissions of air contaminant; environmental ratings. (a) No person shall cause, permit or allow the emission of an air contaminant from any equipment [altered or installed after August twentieth, nineteen hundred seventy-one, which] used in a process covered by part two hundred twelve of title six of the New York codes, rules and regulations where such emission exceeds the permissible emission rates specified in [figures one, two, three, four and five, for the environmental rating as determined in accordance with table one of this section] the environmental ratings for process emissions sources as set forth in such part.

[(a) On October first, nineteen hundred seventy-one, or such later date as established by an order of the commissioner the permissible emission rates specified in this section shall become applicable to equipment in existence on or prior to August twentieth, nineteen hundred seventy-one.]

(b) The provisions of this section shall not be construed to allow or permit any person to emit an air contaminant in quantities which alone or in combination with other sources would contravene any air quality standards.

(c) This section shall be supplemental to all other provisions of this code and in the event of conflict the more stringent section shall control.

[TABLE 1 Environmental Rating

Criteria

Rating

A. Includes processes, and exhaust and ventilation systems where the discharge of air contaminant results, or would reasonably be expected to result, in serious adverse effects on receptors or the environment. These effects may be of a health, economic or aesthetic nature or any combination of these.

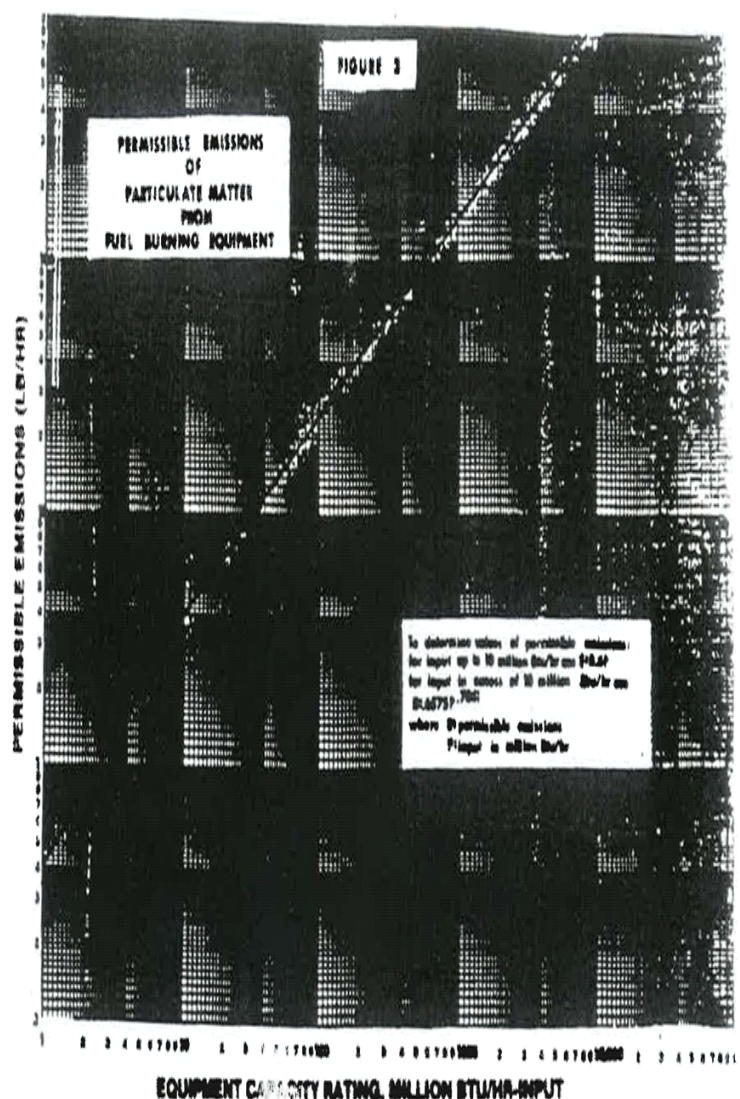
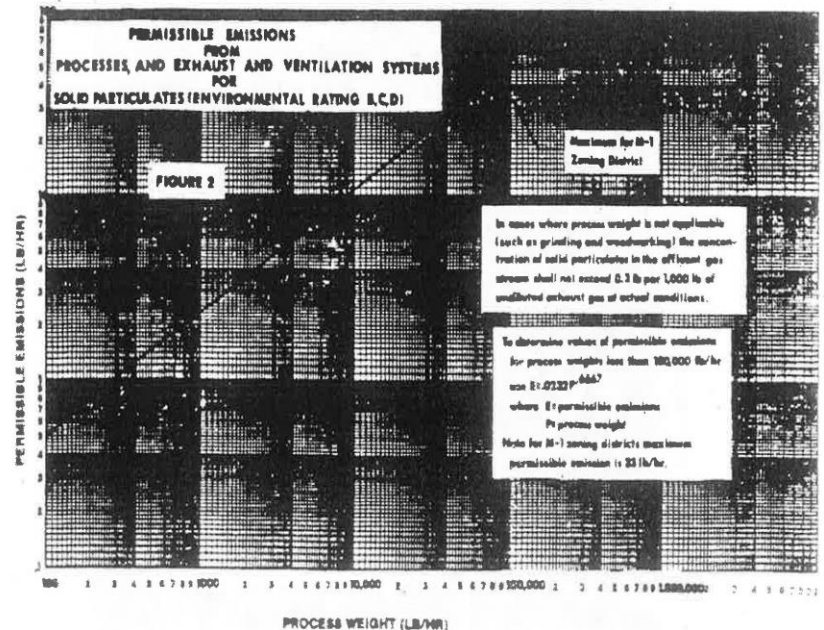
B. Includes processes, and exhaust and ventilation systems where the discharge of contaminant results, or would reasonably be expected to result, in only moderate and essentially localized effects; or where the multiplicity of sources of the contaminant in any given area is such as to require an overall reduction of the atmospheric burden of that contaminant.

C. Includes processes, and exhaust and ventilation systems where the discharge of contaminant would reasonably be expected to result in localized adverse effects of an aesthetic or nuisance nature.

D. Includes processes, and exhaust and ventilation systems where, in view of properties and concentrations of the emissions, isolated conditions, stack heights, and other factors, it can be clearly demonstrated that discharge of contaminant will not result in measurable or observable effects on receptors and not add to an existing or predictable atmospheric burden of that contaminant which would reasonably be expected to cause adverse effects.

The following items will be considered in making a determination of the environmental rating to be applied to a particular source:

- (a) properties, quantities and rates of the emissions;
- (b) physical surroundings of emission source;
- (c) population density of surrounding area, including anticipated future growth;
- (d) dispersion characteristics at or near source;
- (e) location of emission source relative to ground level and surrounding buildings, hills, and other features of the terrain;
- (f) current or anticipated ambient air quality in vicinity of source;
- (g) latest findings relating to effects of ground-level concentrations of the emissions on receptors;
- (h) possible hazardous side effects of air contaminant in question mixing with air contaminants already in ambient air; and
- (i) engineering guides which are acceptable to the commissioner.



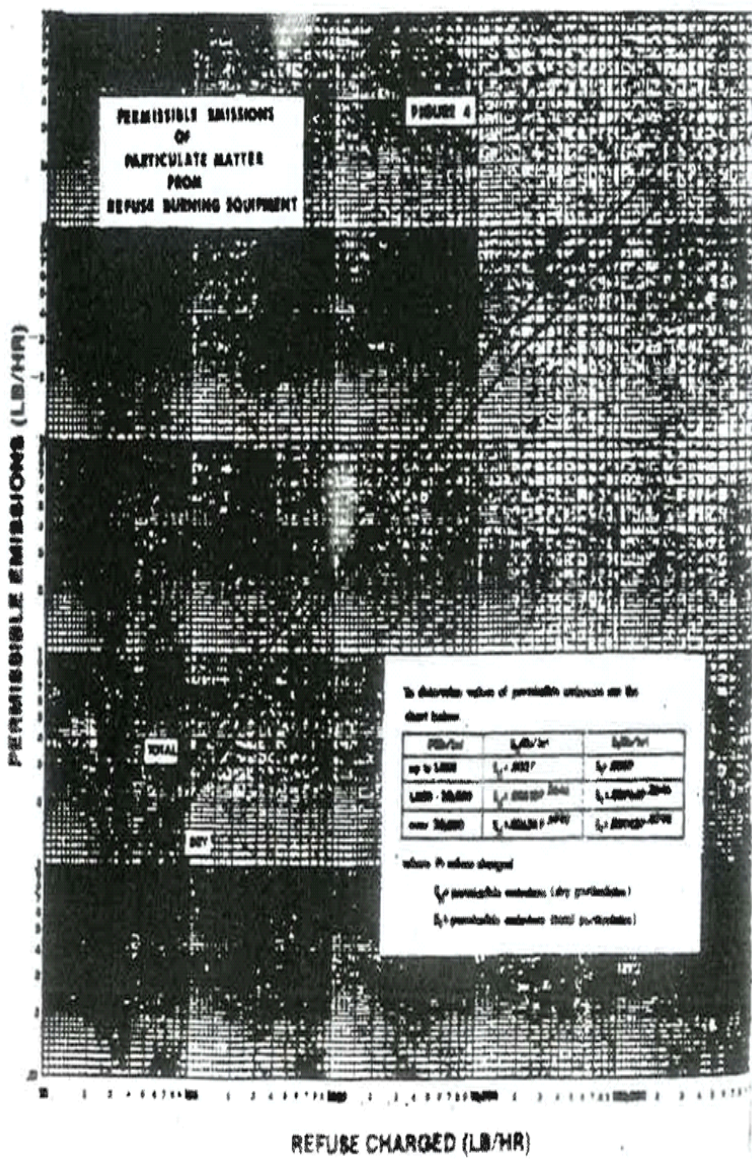


FIGURE 5
USUAL DEGREE OF AIR CLEANING REQUIRED (1) FROM PROCESSES, AND EXHAUST AND VENTILATION SYSTEMS FOR GASES AND LIQUID PARTICULATE EMISSIONS

(Environmental Ratings A*, B*, C*, and D) and Solid Particulate Emissions (Environmental Rating A*)†

Emission Rate Potential (lb/hr)

Environmental Rating	Less than 1.0	1 to 10	10 to 20	20 to 100	100 to 500	500 to 1,000	1,000 to 1,500	1,500 to 4,000	4,000 to 10,000	Greater than 10,000
----------------------	---------------	---------	----------	-----------	------------	--------------	----------------	----------------	-----------------	---------------------

A	see Note (2)			99%		Greater than 99%				
B	**	90-91%	91-94%	94-96%	96-97%	97-98%	98-99%	Greater than 99%		
C	**	70-75%	75-85%	85-90%	90-93%	93-98%	Greater than 98%			
D				**						

*?See Figure (1) for permissible emissions

†?See Figure (2) for permissible emissions of solid particulates for environmental rating B, C and D.

**?Degree of air cleaning may be specified by the commissioner providing satisfactory dispersion is achieved.

(1)Where multiple emission sources are connected to a common air cleaning device, the degree of air cleaning required will be that which would be required if each individual emission source were considered separately.

(2)For an average emission rate potential less than 1.0 lb./hr., the desired air cleaning efficiency shall be determined by the expected concentration of the air contaminant in the emission stream. Where it is uneconomical to employ air cleaning devices, other methods of control should be considered.]

(d) The commissioner may require any owner of equipment used in a process to provide pertinent data concerning emissions so as to show compliance with the

requirements of this section.

§ 36. Section 24-154 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is REPEALED.

§ 37. Subchapter 7 of chapter 1 of title 24 of the administrative code of the city of New York, section 24-163 as amended by local law number 25 for the year 2004, subdivision (a) of such section as amended by local law number 5 for the year 2009, subdivision (e) of such section as added by local law number 4 for the year 2009, subdivisions (f) and (g) of such section as added by local law number 5 for the year 2009, section 24-163.1 as added by local law number 38 for the year 2005, paragraph 11 of subdivision a of such section as amended by local law number 21 for the year 2006, paragraph 13 of subdivision a of such section as added by local law number 75 for the year 2013, paragraph 2 of subdivision d of such section as amended by local law number 76 for the year 2013, paragraph 3 of subdivision e of such section as added by local law number 75 for the year 2013, subdivision g of such section as amended by local law number 130 for the year 2005, section 24-163.2 as added by local law number 38 for the year 2005, paragraph 1 of subdivision d and subdivision g of section 24-163.2 as amended by local law number 21 for the year 2006, section 24-163.3 as added by local law number 77 for the year 2003, section 24-163.4 as added by local law number 39 for the year 2005, paragraph 4 of subdivision a of such section as amended by local law number 21 for the year 2006, paragraph 8 of subdivision a of such section as added, paragraph 1 of subdivision b of such section as amended and subdivision i of such section as added by local law number 73 for the year 2013, section 24-163.5 as added by local law number 40 for the year 2005, paragraph 3 of subdivision b of such section as added by local law number 73 for the year 2013, subdivision h of such section as amended by local law number 74 for the year 2013, section 24-163.6 as added by local law number 41 for the year 2005, subdivision b of such section as amended by local law number 73 for the year 2013, subdivision e of such section as amended by local law number 74 for the year 2013, section 24-163.7 as added by local law number 42 for the year 2005, section 24-163.8 as added by local law number 16 for the year 2009, section 24-163.9 as added by local law number 61 for the year 2009, section 24-163.10 as added by local law number 72 for the year 2013, and section 24-167 as amended by local law number 43 for the year 2010, is amended to read as follows:

SUBCHAPTER 7

EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§ 24-155 Maintenance of equipment and apparatus. The owner of equipment and apparatus shall maintain such equipment and apparatus in good operating order by regular inspection and cleaning and by promptly making repairs.

§ 24-156 Use of fuel burning equipment without using apparatus prohibited. (a) Except as provided in subdivision (b) of this section, no person shall cause or permit the use of fuel burning equipment [which] that is fitted with apparatus, other than experimental apparatus, unless the required apparatus is used.

(b) If fuel burning equipment is fitted with apparatus and is designed to use more than one kind of fuel, the equipment shall not be used unless the apparatus appropriate for the particular fuel is used.

[§ 24-158 Use of department of sanitation refuse burning equipment without control apparatus prohibited. (a) No person shall cause or permit the use of any incinerator operated by the department of sanitation unless there shall be installed therein control apparatus which incorporates the most effective advances in the art of air pollution control as determined by the commissioner but in no event shall the emissions exceed those specified in figure four of section 24-145 of this code.

(b) The commissioner shall submit a report to the city council on the first day of October and on the first day of April of each year setting forth in detail the extent of compliance with subdivision (a) of this section, the cause of whatever non-compliance may exist and what action is being undertaken to assure compliance.]

§ 24-159 Use of less than fully automatic equipment using fuel oil and use of any fuel burning equipment using residual fuel oil; supervision by licensed person. No person shall cause or permit the use of fuel burning equipment [which] that uses fuel oil and is less than fully automatic, or the use of fuel burning equipment, whether fully automatic or not, which uses residual fuel oil, except under the direct supervision of a person having a certificate of fitness [as required by] pursuant to section [27-4014] FC 113 of the [code] New York City Fire Code.

§ 24-160 Use of air contaminant recorder; boilers. No owner of a boiler with a capacity of five hundred million Btu per hour or more shall operate it without the installation and operation of an air contaminant recorder.

§ 24-161 Use of fuel burning equipment using residual fuel oil [and use of refuse burning equipment]; operation and supervision by trained person. (a) No person shall cause or permit the use of fuel burning equipment using residual fuel oil, [or of refuse burning equipment,] except under the operation and supervision of a person who has successfully completed a course of instruction in air pollution control approved by the commissioner [or completes such course within six months of his or her employment. For good cause shown, the department may temporarily exempt persons from this requirement].

(b) The commissioner may approve courses of instruction maintained by educational institutions, by industry, or by labor organizations.

(c) No person shall employ an operator or supervisor of fuel burning equipment using residual fuel oil or of refuse burning equipment who does not have an enrollment card or certificate issued by the department.

[§ 24-162 Operation of refuse burning equipment, other than municipal; time restriction. (a) No person shall cause or permit the operation of refuse burning equipment, other than refuse burning equipment operated by the department of sanitation, at any time other than between seven a.m. and five p.m., of the same day,

except with the approval of the commissioner.

(b) The person seeking approval to operate refuse burning equipment at a time other than that specified under subdivision (a) of this section shall submit a written request in such form as prescribed by the commissioner.

(c) No person shall cause or permit the resumption of use of refuse burning equipment for which permission has been given for the discontinuance of operation or for which an order of discontinuance has been issued, unless permitted to do so by the commissioner.]

§ 24-163 Operation of motor vehicle; idling of engine restricted. (a) [No] Definitions. When used in this section:

(1) "Bus" shall have the same meaning as set forth in section one hundred four of the vehicle and traffic law.

(2) "Loading and unloading" means the activity of passengers boarding or exiting a bus.

(3) "Loading and unloading device" means a device used to move goods or people on or off of a vehicle.

(4) "Processing device" means a device necessary to operate an engine-powered refrigeration system designed to control the environment of temperature sensitive cargo, including but not limited to food. Processing device shall also mean a device necessary to accomplish the work, other than transporting goods, for which the vehicle or equipment was designed, including, but not limited to: operating a lift, crane, pump, drill, hoist, mixer or other auxiliary equipment other than a heater or air conditioner.

(5) "School bus depot" means any garage, lot or other facility where buses that transport children to or from schools are parked overnight.

(6) "Multiple use bus terminal point" means a location that is both a terminal point of at least one bus route, other than a school bus route, and at least one bus stop, other than a school bus stop, on a different bus route.

(b) (1) Except as provided in this subdivision or subdivisions (f) or (g) of this section, no person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than three minutes, [except as provided in subdivision (f) of this section,] while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is being used to actively operate a loading[,] and unloading device or processing device. [When the ambient temperature is in excess of forty degrees Fahrenheit, no person shall cause or permit the engine of a bus as defined in section one hundred four of the vehicle and traffic law to idle while parking, standing, or stopping (as defined above) at any terminal point, whether or not enclosed, along an established route.

(b) (2) The prohibitions of this section shall not apply when a hybrid electric vehicle, as defined in section 86.1702-99 of title forty of the code of federal regulations, is idling for the purpose of providing energy for a battery or other form of energy storage recharging.

(3) The prohibitions of this section shall not apply to electric powered vehicles.

(4) The prohibitions of this section shall not apply to regeneration of a diesel particulate filter.

(5) Buses are permitted to idle for five minutes in any thirty minute period in order to operate heating or air conditioning during active loading and unloading of passengers. Any diesel powered vehicle that does not move for more than two hours shall be allowed to idle up to fifteen minutes for every three hour period in which it remains stationary when the outside temperature is continuously below twenty-five degrees Fahrenheit.

(6) Any motor vehicle that has an independent refrigeration system that includes a compressor operating on diesel fuel shall not run such system longer than five minutes in a particular location.

(c) The department of transportation shall post signs relating to prohibited idling that shall comply with the standards set forth in the Manual on Uniform Traffic Control Devices and, where practicable, include the maximum penalty that may be imposed for a violation of subdivision [a] (b) of this section as follows:

(1) a sign shall be posted at each exit within the city of New York of each bridge and tunnel having only one terminus in the city of New York;

(2) signs shall be posted at a minimum of five locations in each borough where two or more truck routes, whether local or through routes, intersect;

(3) a sign shall be posted at each bus layover area (other than school bus layover areas), designated by the commissioner of transportation pursuant to section 4-10(c)(3) of title 34 of the rules of the city of New York, or any successor rule;

(4) a sign shall be posted at each multiple use bus terminal point;

(5) a sign shall be posted in close proximity to each school bus depot; and,

(6) signs shall be posted at other appropriate locations throughout the city as jointly determined by the commissioner and the commissioner of transportation, including but not limited to, locations for which the city receives a substantial number of complaints of idling motor vehicles.

[(c) For the purpose of this section only the term "school bus depot" shall mean any garage, lot or other facility where buses that transport children to or from schools are parked over night and the term "multiple use bus terminal point" shall mean a location that is both a terminal point of at least one bus route (other than a school bus route) and a bus stop (other than a school bus stop) on one or more other bus routes.]

(d) In any proceeding relating to a violation of the restrictions on idling it shall not be a defense that a sign required by this section was absent at the time of the violation.

(e) In addition to the department and the police department, the department of parks and recreation and the department of sanitation shall have the authority to enforce subdivision [a] (b) of this section and shall have the power to issue summonses, appearance tickets and/or notices of violation for violations of such subdivision.

(f) No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than one minute if such motor vehicle is adjacent, as determined by rule, to any public park or to any public school under the jurisdiction of the New York city department of education or to any non-public school that provides educational instruction to students in any grade from pre-kindergarten to the twelfth grade level, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device, and provided that idling of an engine of a school bus may be permitted to the extent necessary: (1) for mechanical work; (2) to maintain an appropriate temperature for passenger comfort; or (3) in emergency evacuations where necessary to operate wheelchair lifts. It shall be an affirmative defense that any such school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred.

(g) Service vehicles operated by a gas or electric company or by a city or state agency or the port authority of New York and New Jersey are permitted to idle in order to operate traffic control signals during street work.

(h) A report shall be submitted to the city council on an annual basis by: (1) the environmental control board that states the number of notices of violation issued for engine idling violations returnable to the environmental control board, including the total amount of penalties imposed for such notices of violations; and (2) the department of finance that states the number of summonses issued for engine idling violations pursuant to subdivision (p) of section 4-08 of title 34 of the rules of the city of New York, or any successor rule, including the total amount of penalties imposed for such summonses.

§ 24-163.1 Purchase of cleaner light-duty and medium-duty vehicles. a. Definitions. When used in this section or in section 24-163.2 of this chapter:

(1) "Alternative fuel" means natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel which is at least eighty-five percent, singly or in combination, methanol, ethanol, any other alcohol or ether.

(2) "Alternative fuel motor vehicle" means a motor vehicle that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(3) "Average fuel economy" means the sum of the fuel economies of all motor vehicles in a defined group divided by the number of motor vehicles in such group.

(4) "Bi-fuel motor vehicle" means a motor vehicle that is capable of being operated by both an alternative fuel and gasoline or diesel fuel, but may be operated exclusively by any one of such fuels.

(5) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(6) "Equivalent carbon dioxide" means the metric measure used to compare the emissions from various greenhouse gases emitted by motor vehicles based upon their global warming potential according to the California air resources board or the United States environmental protection agency.

(7) "Fuel economy" means the United States environmental protection agency city mileage published label value for a particular motor vehicle, pursuant to section 32908(b) of title 49 of the United States code.

(8) "Gross vehicle weight rating" means the value specified by the manufacturer of a motor vehicle model as the maximum design loaded weight of a single vehicle of that model.

(9) "Light-duty vehicle" means any motor vehicle having a gross vehicle weight rating of 8,500 pounds or less.

(10) "Medium-duty vehicle" means any motor vehicle having a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

(11) "Motor vehicle" means a vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability, provided, however, that this term shall not include vehicles that are specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department, fire department, [or] department of correction, or office of the chief medical examiner.

(12) "Purchase" means purchase, lease, borrow, obtain by gift or otherwise acquire.

(13) "Use-based fuel economy" means the total number of miles driven by all light-duty and medium-duty vehicles in the city fleet during the previous fiscal year divided by the total amount of fuel used by such vehicles during the previous fiscal year.

b. (1) Except as provided for in paragraphs two and three of this subdivision, beginning July 1, 2006, each light-duty vehicle and medium-duty vehicle that the city purchases shall achieve the highest of the following ratings, with subparagraph one of this paragraph being the highest vehicle rating, applicable to motor vehicles certified to California LEV II standards and available within the applicable model year for a light-duty vehicle or medium-duty vehicle that meets the requirements for the intended use by the city of such vehicle:

(i) zero emission vehicle (ZEV)

- (ii) advanced technology partial zero emission vehicle (ATPZEV)
- (iii) partial zero emission vehicle (PZEV)
- (iv) super ultra low emission vehicle (SULEV)
- (v) ultra low emission vehicle (ULEV)
- (vi) low emission vehicle (LEV)

(2) The city shall not be required to purchase a zero emission vehicle or advanced technology partial zero emission vehicle in accordance with paragraph one of this subdivision if the only available vehicle or vehicles that achieve such a rating cost greater than fifty percent more than the lowest bid as determined by the applicable procurement process for a vehicle available in the next highest rating category that meets the requirements for the intended use by the city of such vehicle or if, after consultation with the affected agency, the commissioner determines that the use of such vehicle would be impractical or would unduly hinder the operations of a city agency, or if the commissioner determines that the city lacks the charging and fueling infrastructure to support use of such a vehicle.

(3) Notwithstanding the requirements of paragraph one of this subdivision, such requirements need not apply to a maximum of five percent of the light-duty vehicles and medium-duty vehicles purchased within each fiscal year.

(4) For the fiscal year beginning July 1, 2005, at least eighty percent of the light-duty vehicles the city purchases in such fiscal year shall be alternative fuel motor vehicles.

c. (1) The city shall not purchase additional bi-fuel motor vehicles.

(2) Any bi-fuel motor vehicle that is owned or operated by the city shall be powered on the alternative fuel on which it is capable of operating, except that such vehicle may be operated on gasoline or diesel fuel (i) where, as of the date of enactment of this section, such vehicle is no longer mechanically able to operate on such alternative fuel and cannot be repaired, or (ii) solely for the period of time recommended by the vehicle manufacturer.

d. (1) Not later than October 1, 2005, the city shall complete an inventory of the fuel economy of all light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2004, and shall calculate the average fuel economy of all such light-duty vehicles.

(2) The city shall achieve the following minimum percentage increases in the average fuel economy of all light-duty vehicles purchased by the city during the following fiscal years, relative to the average fuel economy of all such vehicles purchased by the city during the fiscal year beginning July 1, 2004, calculated pursuant to paragraph one of this subdivision:

- (i) For the fiscal year beginning July 1, 2006, five percent;
- (ii) For the fiscal year beginning July 1, 2007, eight percent;
- (iii) For the fiscal year beginning July 1, 2008, ten percent;
- (iv) For the fiscal year beginning July 1, 2009, twelve percent;
- (v) For the fiscal years beginning July 1, 2010 and July 1, 2011, fifteen percent;
- (vi) For the fiscal years beginning July 1, 2012, July 1, 2013 and July 1, 2014, eighteen percent;
- (vii) For the fiscal year beginning July 1, 2015, twenty percent;
- (viii) For the fiscal year beginning July 1, 2016, twenty percent;
- (ix) For the fiscal year beginning July 1, 2017, twenty-five percent;
- (x) For the fiscal year beginning July 1, 2018, twenty-five percent;
- (xi) For the fiscal year beginning July 1, 2019, thirty-percent;
- (xii) For the fiscal year beginning July 1, 2020, thirty-percent;
- (xiii) For the fiscal year beginning July 1, 2021, thirty-five percent;

and

(xiv) For the fiscal year beginning July 1, 2022, and for each fiscal year thereafter, forty percent.

e. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the city's purchase of light-duty vehicles and medium-duty vehicles during the immediately preceding fiscal year. The information contained in this report shall also be included in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to, for each city agency: (i) the total number of light-duty vehicles and medium-duty vehicles and all other motor vehicles, respectively, purchased by such agency; (ii) the total number of light-duty vehicles and medium-duty vehicles, respectively, purchased by such agency that are certified to California LEV II standards in each of the six rating categories listed in subdivision b of this section, disaggregated according to vehicle model; (iii) the reason as to why each vehicle model was purchased, rather than a vehicle model rated in a higher category listed in subdivision b of this section; (iv) if an available zero emission vehicle or advanced technology partial zero emission vehicle is not purchased, in accordance with paragraph two of subdivision b of this section, specific information regarding the cost analysis [that formed the] or other basis for such decision; (v) the percentage of light-duty vehicles and medium-duty vehicles purchased within each fiscal year in accordance with paragraphs one and two of subdivision b of this section; and (vi) for the report required not later than January 1, 2007, the percentage of light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2005 that were alternative fuel motor vehicles.

(2) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the fuel economy of light-duty vehicles purchased by the city during the immediately preceding fiscal year. The information contained in this report shall also be included in the preliminary mayor's management report and the mayor's

management report for the relevant fiscal year and shall include, but not be limited to: (i) the average fuel economy of all light-duty vehicles purchased by the city during the preceding fiscal year; and (ii) the percentage increase in the average fuel economy of all such light-duty vehicles, relative to the average fuel economy of all light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2004, calculated pursuant to paragraph one of subdivision d of this section, that this total amount represents.

(3) Not later than January 1, 2016, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the use-based fuel economy for the immediately preceding fiscal year. The information contained in such report shall also be included in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year.

f. (1) Beginning July 1, 2006, for each fiscal year, the city shall measure the amount of fuel consumed by the city's fleet of motor vehicles and the equivalent carbon dioxide emitted by such vehicles, for each type of fuel consumed by such vehicles.

(2) For the fiscal year beginning July 1, 2006, and for each fiscal year thereafter, the department shall publish on its website by October 1 following the close of each fiscal year and the mayor shall include in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year the estimated total amount of fuel consumed by the city's fleet of motor vehicles and the estimated total amount of equivalent carbon dioxide emitted by such vehicles, disaggregated according to fuel type. For the purposes of this subdivision, the city's fleet of motor vehicles shall include vehicles specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department[or], fire department, or office of the chief medical examiner.

g. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the purchasing requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter; or

(3) except for subdivision f of this section, to diesel fuel-powered motor vehicles subject to paragraph two of subdivision b of section 24-163.4 of this chapter.

h. To the extent not prohibited by law, alternative fuel motor vehicles may be purchased by the city in concert with any public or private entity.

§ 24-163.2 Alternative fuel buses and sanitation vehicles. a. Definitions. When used in this section:

(1) "Alternative fuel bus" means a bus that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(2) "Alternative fuel sanitation vehicle" means a sanitation vehicle that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(3) "Alternative fuel street sweeping vehicle" means a vehicle used by the department of sanitation for street cleaning purposes that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

(4) "Bus" means a motor vehicle that is designed to transport more than twenty individuals.

(5) "Recyclable materials" means solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste.

(6) "Sanitation vehicle" means a vehicle used by the department of sanitation for street cleaning purposes or for the collection of solid waste or recyclable materials.

(7) "Solid waste" means all materials or substances discarded or rejected as being spent, useless, or worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous forms.

b. For the fiscal year commencing July 1, 2005, and for each fiscal year thereafter, at least twenty percent of the buses the city purchases in such fiscal year shall be alternative fuel buses.

c. (1) Beginning no later than March 1, 2006, the commissioner of sanitation shall implement a program for testing the mechanical reliability and operational feasibility of alternative fuel street sweeping vehicles. Such program shall include a pilot project regarding the exclusive utilization of alternative fuel street sweeping vehicles in at least four sanitation districts, to be identified at the discretion of the commissioner of sanitation. At least one such district shall be located in an area where high rates of asthma are found and the commissioner shall consider asthma rates in his or her determination of where such other districts will be located.

(2) The department of sanitation shall collect and analyze data to further develop its initiatives for and assess the feasibility of incorporating new alternative fuel sanitation vehicles and technology into its fleet.

d. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the city's purchase of alternative fuel buses during the immediately preceding fiscal year. This report shall be included in the mayor's preliminary

management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to: (i) the total number of buses purchased by the city in the preceding fiscal year; *and* (ii) the number of such buses that are alternative fuel buses, disaggregated according to agency, bus model and type of alternative fuel used; and (iii) the determination, if any, by the commissioner of correction that there were no alternative fuel buses available that met such department's needs pertaining to bus size, passenger capacity and security during the preceding fiscal year and the detailed analysis that formed the basis for such determination, and, where the department of correction has not purchased an alternative fuel bus due to cost, as provided for in paragraph three of subdivision g of this section, the detailed cost analysis that formed the basis for such decision].

(2) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner of sanitation shall report to the mayor, the comptroller and the speaker of the council on the department of sanitation's alternative fuel street sweeping vehicle pilot project and all testing, analyses and assessments completed pursuant to subdivision c of this section. Such report shall include, but not be limited to: (i) a description of all testing, analyses and assessments, respectively, completed pursuant to that subdivision and all conclusions based upon such testing, analyses and assessments, including specific information regarding efforts made by the department of sanitation to further develop initiatives for the incorporation of alternative fuel sanitation vehicles into its fleet, in addition to specific information regarding the feasibility of incorporating such vehicles into such fleet; (ii) the number of alternative fuel street sweeping vehicles included in the pilot project required pursuant to paragraph one of that subdivision, the districts where such vehicles are located and the type of alternative fuel used by such vehicles; and, (iii) the total number of alternative fuel sanitation vehicles owned or operated by the department of sanitation, disaggregated according to vehicle model and type of alternative fuel used.

e. Purchases of alternative fuel buses that exceed the minimum mandatory purchase requirements of subdivision b of this section for a particular fiscal year may be used to satisfy such applicable requirements for the immediately succeeding fiscal year.

f. To the extent not prohibited by law, alternative fuel buses and alternative fuel sanitation vehicles may be purchased by the city in concert with any public or private entity.

g. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the purchasing requirements of this section; [or]

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter; *or*

(3) *to the purchase of buses for use by any city agency where the commissioner of such agency has made a written determination that there are no alternative fuel buses available that meet the needs of such agency with respect to bus size, passenger capacity or other special requirement, and has within ten business days thereafter submitted the determination to the speaker of the council accompanied by the detailed analysis that formed the basis for such determination; provided, however, that the purchase of buses for use by the agency shall become subject to the provisions of this section immediately after a determination by the commissioner, after consultation with the department of citywide administrative services, that an alternative fuel bus that meets such needs has become available; and provided, further, however, that the city shall not be required to purchase an alternative fuel bus for use by the agency if the only available alternative fuel bus that meets the needs of such agency with respect to bus size, passenger capacity or other special requirement costs more than fifty percent more than other buses that meet such needs of such agency.*

h. The commissioner may by rule require periodic testing of alternative fuel buses and the submission of information concerning the operation and maintenance of such buses purchased or newly operated in the city to ensure compliance with this section and to collect information for reports required by this section.

i. The commissioner may order [the owner or operator of] *a city agency that owns or operates* a bus to which this section applies to conduct such tests, or the department may conduct such tests, as are necessary in the opinion of the commissioner to determine whether such bus is in compliance with this section.

j. The department may inspect at a reasonable time and in a reasonable manner any equipment, apparatus, fuel, matter or thing that affects or may affect the proper maintenance or operation of an alternative fuel bus to which this section applies.

§ 24-163.3 Use of ultra low sulfur diesel fuel and best available technology in nonroad vehicles. a. For purposes of this section only, the following terms shall have the following meanings:

[(1) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(2)] (1) "Contractor" means any person or entity that enters into a public works contract with a city agency, or any person or entity that enters into an agreement with such person or entity, to perform work or provide labor or services related to such public works contract.

[(3)] (2) "Lower Manhattan" means the area of New York county consisting of the area to the south of and within Fourteenth street.

[(4)] (3) "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

[(5)] (4) "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United States code, except that this term shall apply to

internal combustion engines used to power generators, compressors or similar equipment used in any construction program or project.

[(6)] (5) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, fifty horsepower and greater, and that is not a motor vehicle or a vehicle used solely for competition, which shall include, but not be limited to, excavators, backhoes, cranes, compressors, generators, bulldozers and similar equipment, except that this term shall not apply to horticultural maintenance vehicles used for landscaping purposes that are powered by a nonroad engine of sixty-five horsepower or less and that are not used in any construction program or project.

[(7) "Person" means any natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

(8)] (6) "Public works contract" means a contract with a city agency for a construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; a contract with a city agency for the preparation for any construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; or a contract with a city agency for any final work involved in the completion of any construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge.

[(9) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.]

b. (1) Any diesel-powered nonroad vehicle that is owned by, operated by or on behalf of, or leased by a city agency shall be powered by ultra low sulfur diesel fuel.

(2) Any diesel-powered nonroad vehicle that is owned by, operated by or on behalf of, or leased by a city agency shall utilize the best available technology for reducing the emission of pollutants, *or shall be equipped with an engine certified to the applicable tier four emissions standards established by the United States environmental protection agency as set forth in section 1039.101 of title forty of the code of federal regulations or to any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent.*

c. (1) Any solicitation for a public works contract and any contract entered into as a result of such solicitation shall include a specification that all contractors in the performance of such contract shall use ultra low sulfur diesel fuel in diesel-powered nonroad vehicles and all contractors in the performance of such contract shall comply with such specification.

(2) Any solicitation for a public works contract and any contract entered into as a result of such solicitation shall include a specification that all contractors in the performance of such contract shall utilize the best available technology for reducing the emission of pollutants for diesel-powered nonroad vehicles[and all], *or shall utilize diesel-powered nonroad vehicles that are equipped with engines certified to the applicable tier four emissions standards established by the United States environmental protection agency as set forth in section 1039.101 of title forty of the code of federal regulations or to any subsequent United States environmental protection agency emissions standard for such engines that is at least as stringent.* All contractors in the performance of such contract shall comply with such specification.

d. (1) (i) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available technology for reducing the emission of pollutants to be used for each type of diesel-powered nonroad vehicle to which this section applies for the purposes of paragraph two of subdivision b and paragraph two of subdivision c of this section. Each such determination, which shall be updated on a regular basis, but in no event less than once every six months, shall be primarily based upon the reduction in emissions of particulate matter and secondarily based upon the reduction in emissions of nitrogen oxides associated with the use of such technology and shall in no event result in an increase in the emissions of either such pollutant.

(ii) In determining the best available technology for reducing the emission of pollutants, the commissioner shall select technology from that which has been verified by the United States environmental protection agency or the California air resources board [for use in nonroad vehicles or onroad vehicles where such technology may also be used in nonroad vehicles, but the commissioner may select technology that is not verified as such as is deemed appropriate], *as set forth in the executive orders of such board, for use in nonroad vehicles for each engine family. If no such technology exists for a specific engine family, then the commissioner shall select appropriate technology from that which has been verified by the United States environmental protection agency or the California air resources board as set forth in the executive orders of such board, for a different nonroad vehicle engine family. If no such appropriate technology exists for a different nonroad vehicle engine family, then the commissioner may select such technology that he or she deems appropriate.*

(2) No city agency or contractor shall be required to replace best available technology for reducing the emission of pollutants or other authorized technology utilized for a diesel-powered nonroad vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle *or on or before July first, two thousand seventeen, whichever is later.*

e. A city agency shall not enter into a public works contract subject to the provisions of this section unless such contract permits independent monitoring of the contractor's compliance with the requirements of this section and requires that the contractor comply with section 24-163 of this code. If it is determined that the contractor has failed to comply with any provision of this section, any costs associated with any independent monitoring incurred by the city shall be reimbursed by the contractor.

f. (1) The provisions of subdivision b of this section shall apply to any diesel-

powered nonroad vehicle in use in Lower Manhattan that is owned by, operated by or on behalf of, or leased by a city agency and the provisions of subdivision c of this section shall apply to any public works contract for Lower Manhattan upon the effective date of this section.

(2) The provisions of paragraph one of subdivision b of this section shall apply to all diesel-powered nonroad vehicles that are owned by, operated by or on behalf of, or leased by a city agency and the provisions of paragraph one of subdivision c of this section shall apply to all public works contracts six months after the effective date of this section.

(3) The provisions of paragraph two of subdivision b of this section shall apply to all diesel-powered nonroad vehicles that are owned by, operated by or on behalf of, or leased by a city agency and the provisions of paragraph two of subdivision c of this section shall apply to any public works contract that is valued at two million dollars or more one year after the effective date of this section.

(4) The provisions of paragraph two of subdivision c of this section shall apply to all public works contracts eighteen months after the effective date of this section.

g. [(1)] On or before January 1, 2005, and every succeeding January 1, the commissioner shall report to the comptroller and the speaker of the council on the use of ultra low sulfur diesel fuel in diesel-powered nonroad vehicles and the use of the best available technology for reducing the emission of pollutants and such other authorized technology in accordance with this section for such vehicles by city agencies during the immediately [preceeding] *preceding* fiscal year. This report shall include, but not be limited to (i) the total number of diesel-powered nonroad vehicles owned by, operated by or on behalf of, or leased by each city agency or used to fulfill the requirements of a public works contract for each city agency; (ii) the number of such nonroad vehicles that were powered by ultra low sulfur diesel fuel; (iii) the number of such nonroad vehicles that utilized the best available technology for reducing the emission of pollutants, including a breakdown by vehicle model and the type of technology used for each vehicle; (iv) the number of such nonroad vehicles that utilized such other authorized technology in accordance with this section, including a breakdown by vehicle model and the type of technology used for each vehicle; (v) the locations where such nonroad vehicles that were powered by ultra low sulfur diesel fuel and/or utilized the best available technology for reducing the emission of pollutants or such other authorized technology in accordance with this section were used; *and* (vi) [all findings, and renewals of such findings, issued pursuant to subdivision j of this section, which shall include, but not be limited to, for each finding and renewal, the quantity of diesel fuel needed by the city agency or contractor to power diesel-powered nonroad vehicles owned by, operated by or on behalf of, or leased by the city agency or used to fulfill the requirements of a public works contract for such agency; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision i of this section; and detailed information concerning the city agency's or contractor's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision i of this section; and (vii)] all findings and waivers, and renewals of such findings and waivers, issued pursuant to paragraph one or paragraph three of subdivision [k] j or subdivision [m] l of this section, which shall include, but not be limited to, all specific information submitted by a city agency or contractor upon which such findings, waivers and renewals are based and the type of such other authorized technology, if any, utilized in accordance with this section in relation to each finding, waiver and renewal, instead of the best available technology for reducing the emission of pollutants.

[(2) Where a determination is in effect pursuant to subdivision i of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision.]

h. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

[i. The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of paragraph one of subdivision b and paragraph one of subdivision c of this section if ultra low sulfur diesel fuel is not available to meet the needs of city agencies and contractors to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months if ultra low sulfur diesel fuel is not available to meet the needs of city agencies and contractors to fulfill the requirements of this section, but in no event shall be in effect after September 1, 2006.

j.] i. Paragraph one of subdivision b and paragraph one of subdivision c, as that paragraph applies to all contractors' duty to comply with the specification, of this section shall not apply to [a city agency or contractor in its fulfillment of the requirements of a public works contract for such agency where such agency makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision i of this section, is not available to meet the requirements of paragraph one of subdivision b or paragraph one of subdivision c of this section, provided that such agency or contractor in its fulfillment of the requirements of a public works contract for such agency, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available. Any finding made pursuant to this subdivision

shall expire after sixty days, at which time the requirements of paragraph one of subdivision b and paragraph one of subdivision c of this section shall be in full force and effect unless the city agency renews the finding in writing and such renewal is approved by the commissioner] *any diesel-powered nonroad vehicle covered under a federal waiver for the use of ultra-low sulfur diesel fuel issued by the United States environmental protection agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) or any regulation promulgated thereunder, provided that the city agency or contractor shall fully comply with the terms of such federal waiver, and the requirements of paragraph one of subdivision b and paragraph one of subdivision c of this section shall be in full force and effect upon the expiration of such federal waiver.*

[k.] j. Paragraph two of subdivision b and paragraph two of subdivision c, as that paragraph applies to all contractors' duty to comply with the specification, of this section shall not apply:

(1) to a diesel-powered nonroad vehicle where a city agency makes a written finding, which is approved, in writing, by the commissioner, that the best available technology for reducing the emission of pollutants as required by those paragraphs is unavailable for such vehicle, in which case such agency or contractor shall use whatever technology for reducing the emission of pollutants, if any, is available and appropriate for such vehicle; or

(2) to a diesel-powered nonroad vehicle that is used to satisfy the requirements of a specific public works contract for fewer than twenty calendar days; or

(3) to a diesel-powered nonroad vehicle where the commissioner has issued a written waiver based upon a city agency or contractor having demonstrated to the commissioner that the use of the best available technology for reducing the emission of pollutants might endanger the operator of such vehicle or those working near such vehicle, due to engine malfunction, in which case such city agency or contractor shall use whatever technology for reducing the emission of pollutants, if any, is available and appropriate for such vehicle, which would not endanger the operator of such vehicle or those working near such vehicle.

[l.] k. In determining which technology to use for the purposes of paragraph one or paragraph three of subdivision [k] j of this section, a city agency or contractor shall primarily consider the reduction in emissions of particulate matter and secondarily consider the reduction in emissions of nitrogen oxides associated with the use of such technology, which shall in no event result in an increase in the emissions of either such pollutant.

[m.] l. Any finding or waiver made or issued pursuant to paragraph one or paragraph three of subdivision [k] j of this section shall expire after one hundred eighty days, at which time the requirements of paragraph two of subdivision b and paragraph two of subdivision c of this section shall be in full force and effect unless the city agency renews the finding, in writing, and the commissioner approves such finding, in writing, or the commissioner renews the waiver, in writing.

[n.] m. Any contractor who violates any provision of this section[, except as provided in subdivision o of this section,] shall be liable for a civil penalty [between the amounts of one thousand and ten thousand dollars, in addition to twice the amount of money saved by such contractor for failure to comply with this section] *in accordance with section 24-178 of the code.*

[o. No] n. Any contractor [shall make] *that makes a false claim with respect to the provisions of this section to a city agency shall be subject to enforcement pursuant to the provisions of chapter eight of title seven of the code.* [Where a contractor has been found to have done so, such contractor shall be liable for a civil penalty of twenty thousand dollars, in addition to twice the amount of money saved by such contractor in association with having made such false claim.]

[p.] o. This section shall not apply to any public works contract entered into or renewed prior to [the effective date of this section] *June nineteenth, two thousand four.*

[q.] p. Nothing in this section shall be construed to limit the city's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualification as a vendor, or otherwise deny a person or entity city business.

§ 24-163.4 Use of ultra low sulfur diesel fuel and best available retrofit technology by the city's diesel fuel-powered motor vehicles. a. Definitions. When used in this section:

(1) "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision d of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(3) "Gross vehicle weight rating" means the value specified by the manufacturer of a motor vehicle model as the maximum design loaded weight of a single vehicle of that model.

(4) "Motor vehicle" means a vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability, provided, however, that this term shall not include vehicles that are specially equipped for emergency response by the department, office of emergency

management, sheriff's office of the department of finance, police department or fire department or vehicles, other than buses, specially equipped for emergency response by the department of correction.

(5) "Person" means any natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

(6) "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision d of this section, when considering the cost of the strategies, themselves, and the cost of installation.

(7) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

(8) "Biodiesel" means a fuel, designated B100, that is composed exclusively of mono-alkyl esters of long chain fatty acids derived from feedstock and that meets the specifications of [the American society of testing and materials] ASTM designation D 6751-12.

b. (1) Each diesel fuel-powered motor vehicle owned or operated by a city agency shall be powered by an ultra low sulfur diesel fuel blend containing biodiesel as follows:

i. for the fiscal years beginning July 1, 2014, and July 1, 2015, an ultra low sulfur diesel fuel blend containing at least five percent biodiesel (B5) by volume; and

ii. for the fiscal year beginning July 1, 2016, and thereafter, between the months of April to November, inclusive, an ultra low sulfur diesel fuel blend containing at least twenty percent biodiesel (B20) by volume, and between the months of December to March, inclusive, an ultra low sulfur diesel fuel blend containing at least five percent biodiesel (B5) by volume.

(2) Diesel fuel-powered motor vehicles having a gross vehicle weight rating of more than 8,500 pounds that are owned or operated by city agencies shall utilize the best available retrofit technology or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, pursuant to the following schedule:

- i. 7% of all such motor vehicles by January 1, 2007;
- ii. 14% of all such motor vehicles by January 1, 2008;
- iii. 30% of all such motor vehicles by January 1, 2009;
- iv. 50% of all such motor vehicles by January 1, 2010;
- v. 70% of all such motor vehicles by January 1, 2011;
- vi. 90% of all such motor vehicles by January 1, 2012;
- vii. 100% of all such motor vehicles by July 1, 2012.

(3) Notwithstanding any provision of subdivision c of this section, diesel fuel-powered motor vehicles having a gross vehicle weight rating of more than 8,500 pounds that are owned or operated by city agencies shall utilize the best available retrofit technology that meets the level 4 emission control strategy as defined in subdivision d of this section, or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, pursuant to the following schedule:

- i. 50% of all such motor vehicles by January 1, 2014;
- ii. 70% of all such motor vehicles by January 1, 2015;
- iii. 80 % of all such motor vehicles by January 1, 2016; and
- iv. 90 % of all such motor vehicles by January 1, 2017.

c. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered motor vehicle to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) The commissioner may determine that a technology, whether or not it has been verified by the United States environmental protection agency or the California air resources board, may be appropriate to test, on an experimental basis, on a particular type of diesel fuel-powered motor vehicle owned or operated by a city agency. The commissioner may authorize such technology to be installed on up to five percent or twenty-five of such type of motor vehicle, whichever is less. Any motor vehicle on which such technology is installed may be counted for the purpose of meeting the requirements of paragraph two of subdivision b of this section. Such technology shall not be required to be installed on other motor vehicles of the same type and shall be subject to the provisions of paragraph three of this subdivision.

(3) No city agency shall be required to replace best available retrofit technology or experimental technology utilized for a diesel fuel-powered motor vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle, except that technology that falls within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it has reached the end of its useful life.

d. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

e. [The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of this section if ultra low sulfur diesel fuel is not available to meet the needs of city agencies to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months if such lack of availability persists, but in no event shall be in effect after September 1, 2006.

f. The commissioner may issue a waiver for the use of] (1) *Paragraph one of subdivision b of this section, as that paragraph applies to the requirement that each diesel fuel-powered motor vehicle owned or operated by a city agency be powered by ultra low sulfur diesel fuel [where a city agency makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision e of this section, is not available to meet the requirements of this section, provided that such agency, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available for its diesel fuel-powered motor vehicles. Any waiver issued pursuant to this paragraph shall expire after two months, unless the city agency renews the finding, in writing, and the commissioner approves such renewal, in writing], shall not apply to any motor vehicle covered under a federal waiver for the use of ultra-low sulfur diesel fuel issued by the United States environmental protection agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) or any regulation promulgated thereunder, provided that the city agency shall fully comply with the terms of such federal waiver, and the requirements of paragraph one of subdivision b of this section shall be in full force and effect upon the expiration of such federal waiver.*

(2) The commissioner may issue a waiver for the use of an ultra low sulfur diesel fuel blend that contains the amount of biodiesel required pursuant to subdivision b of this section where a city agency makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of such ultra low sulfur diesel fuel blend containing biodiesel is not available to meet the requirements of this section. Any waiver issued pursuant to this paragraph shall expire after two months, unless the city agency renews the finding, in writing, and the commissioner approves such renewal, in writing.

(3) The commissioner may issue a waiver for the use of an ultra low sulfur diesel fuel blend that contains the amount of biodiesel required pursuant to subdivision b of this section where a city agency makes a written finding, which is approved, in writing, by the commissioner, that the use of biodiesel in a particular type of motor vehicle would void the manufacturer's warranty for such vehicle.

[g.] f. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology by diesel fuel-powered motor vehicles owned or operated by city agencies during the immediately preceding calendar year. The information contained in this report shall include, but not be limited to, for each city agency: (i) the total number of diesel fuel-powered motor vehicles owned or operated by such agency; (ii) the number of such motor vehicles that were powered by ultra low sulfur diesel fuel; (iii) the total number of diesel fuel-powered motor vehicles owned or operated by such agency having a gross vehicle weight rating of more than 8,500 pounds; (iv) the number of such motor vehicles that utilized the best available retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle; (v) the number of such motor vehicles that are equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for particulate matter that is at least as stringent; (vi) the number of such motor vehicles that utilized technology in accordance with paragraph two of subdivision c of this section and the results and analyses regarding the testing of such technology; and (vii) all waivers, findings, and renewals of such findings, issued pursuant to subdivision [f] e of this section, which, for each waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated by such agency[; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision e of this section; and detailed information concerning the agency's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision e of this section.

(2) Where a determination is in effect pursuant to subdivision e of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision].

[(3)] (2) The report due January 1, 2007 in accordance with paragraph one of this subdivision shall only include the information required pursuant to subparagraphs (i), (ii) and (vii) of such paragraph.

[h.] g. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the

requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

[i.] h. B20 winter pilot program. Not later than December 1, 2016, the commissioner of citywide administrative services shall establish a pilot program to determine the feasibility of utilizing an ultra low sulfur diesel fuel blend containing at least twenty percent biodiesel (B20) by volume in city-owned diesel fuel-powered motor vehicles during the months of December to March, inclusive. The pilot program shall include not less than five percent of the city's total diesel fuel-powered motor vehicle fleet, which shall be representative of the vehicle types and operating conditions of the fleet as a whole, and shall include vehicles from the department of citywide administrative services, department of environmental protection, department of parks and recreation, department of sanitation, and department of transportation and vehicles from other city agencies at the discretion of the commissioner of citywide administrative services. Such pilot program shall continue until March 31 of the second calendar year after such pilot program was initiated, and within four months of the conclusion of such pilot program, the commissioner of citywide administrative services shall issue a report to the mayor and the speaker of the council detailing the findings of such pilot program with recommendations for the use of an ultra low sulfur diesel fuel blend containing at least twenty percent biodiesel (B20) by volume in city-owned diesel fuel-powered motor vehicles during the months of December to March, inclusive.

§ 24-163.5 Use of ultra low sulfur diesel fuel and best available retrofit technology in the fulfillment of solid waste contracts and recyclable materials contracts. a. Definitions. When used in this section:

(1) "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board unless as otherwise deemed appropriate by the commissioner for a nonroad vehicle, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision d of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(3) (2) "Contractor" means any person or entity that enters into a solid waste contract or recyclable materials contract with a city agency, or any person or entity that enters into an agreement with such person or entity, to perform work or provide labor or services related to such solid waste contract or recyclable materials contract.

(4) (3) "Motor vehicle" shall mean a vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability.

(5) (4) "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United States code, except that this term shall apply to internal combustion engines used to power generators, compressors or similar equipment used in the fulfillment of any solid waste contract or recyclable materials contract.

(6) (5) "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, fifty horsepower and greater, and that is not a motor vehicle or a vehicle used solely for competition, which shall include, but not be limited to, front loaders, excavators, backhoes, cranes, compressors, generators, bulldozers and similar equipment.

(7) (6) "Operate primarily within the city of New York" means that greater than fifty percent of the time spent or miles traveled by a motor vehicle or nonroad vehicle during the performance of a solid waste contract or recyclable materials contract occurs within the city of New York.

(8) "Person" means any natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

(9) (7) "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision d of this section, when considering the cost of the strategies, themselves, and the cost of installation.

(10) (8) "Recyclable materials" means solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste.

(11) (9) "Recyclable materials contract" means a contract with a city agency, the primary purpose of which is to provide for the handling, transport or disposal of recyclable materials.

(12) (10) "Solid waste" means all materials or substances discarded or rejected as being spent, useless, or worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris

and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous forms.

[(13)] (11) "Solid waste contract" means a contract with a city agency, the primary purpose of which is to provide for the handling, transport or disposal of solid waste.

[(14)] "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.]

b. (1) Any solid waste contract or recyclable materials contract shall specify that all diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used in the performance of such contract that operate primarily within the city of New York shall be powered by ultra low sulfur diesel fuel and all contractors in the performance of such contract shall comply with such specification.

(2) Any solid waste contract or recyclable materials contract shall specify that, as of March 1, 2006, all diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used in the performance of such contract that operate primarily within the city of New York shall utilize the best available retrofit technology and all contractors in the performance of such contract shall comply with such specification.

(3) Notwithstanding any provision of subdivision c of this section, any solid waste contract or recyclable materials contract entered into pursuant to requests for bids and/or requests for proposals issued after the effective date of the local law that added this paragraph shall specify that, as of January 1, 2017, all diesel fuel-powered motor vehicles used in the performance of such contract that operate primarily within the city of New York shall utilize the best available retrofit technology that meets the level 4 emission control strategy as defined in subdivision d of this section, or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, and all contractors in the performance of such contract shall comply with such specification.

c. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered motor vehicle and diesel fuel-powered nonroad vehicle to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) No contractor shall be required to replace best available retrofit technology or other authorized technology utilized for a diesel fuel-powered motor vehicle or diesel fuel-powered nonroad vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle, except that technology that falls within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it has reached the end of its useful life.

d. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

e. A city agency shall not enter into a solid waste contract or recyclable materials contract subject to the provisions of this section unless such contract permits independent monitoring of the contractor's compliance with the requirements of this section and requires that the contractor comply with section 24-163 of this code. If it is determined that the contractor has failed to comply with any provision of this section, any costs associated with any independent monitoring incurred by the city shall be reimbursed by the contractor.

f. [The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of paragraph one of subdivision b of this section if ultra low sulfur diesel fuel is not available to meet the needs of contractors to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months if such lack of availability persists, but in no event shall be in effect after September 1, 2006.]

g. The commissioner may issue a waiver for the use of ultra low sulfur diesel fuel where the city agency that has entered into the applicable solid waste contract or recyclable materials contract makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section, is not available to meet the requirements of this section, provided that the contractor, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available for its diesel fuel-powered vehicles. Any waiver issued pursuant to this subdivision shall expire after two months, unless the city agency renews the finding, in writing, and the commissioner approves such renewal, in writing] *Paragraph one of subdivision b of this section, as that paragraph applies to all contractors' duty to comply with the specification, shall not apply to any motor vehicle or nonroad vehicle covered under a federal waiver for the use of ultra-low sulfur diesel fuel issued by the United States environmental protection agency pursuant to 42 U.S.C. §*

7545(c)(4)(C)(ii) or any regulation promulgated thereunder, provided that the contractor shall fully comply with the terms of such federal waiver, and the requirements of paragraph one of subdivision b of this section shall be in full force and effect upon the expiration of such federal waiver.

[h.] g. The commissioner may issue a waiver for the use of the best available retrofit technology by a diesel fuel-powered motor vehicle or diesel fuel-powered nonroad vehicle where the city agency that has entered into the applicable solid waste contract or recyclable materials contract makes a written finding, which is approved, in writing, by the commissioner, that such technology is unavailable for purchase for such vehicle, in which case the contractor shall be required to use the technology for reducing the emission of pollutants that would be the next best best available retrofit technology and that is available for purchase for such vehicle. Any waiver issued pursuant to this subdivision shall expire after three years. The commissioner shall not renew any waiver issued pursuant to this subdivision after January 1, 2014.

[i.] h. (1) Paragraph two of subdivision b of this section shall not apply to a diesel-fuel powered motor vehicle that is equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

(2) Paragraph two of subdivision b of this section shall not apply to a diesel-fuel powered nonroad vehicle that is equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter for such vehicle as set forth in [the Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel; Final Rule, published in the federal register on June 29, 2004 at 69 Fed. Reg. 38,958 et seq.] *section 1039.101 of title forty of the code of federal regulations*, or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

[j. (1)] i. Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology by diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used in the performance of a solid waste contract or recyclable materials contract during the immediately preceding fiscal year. This report shall include, but not be limited to: (i) the total number of diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles, respectively, used in the performance of solid waste contracts or recyclable materials contracts; (ii) the number of such motor vehicles and nonroad vehicles, respectively, that were powered by ultra low sulfur diesel fuel; (iii) the number of such motor vehicles and nonroad vehicles, respectively, that utilized the best available retrofit technology, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv) the number of such motor vehicles and nonroad vehicles, respectively, that utilized other authorized technology in accordance with this section, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (v) the number of such motor vehicles and nonroad vehicles, respectively, that are equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter in accordance with subdivision [i] h of this section; (vi) the locations where such motor vehicles and nonroad vehicles, respectively, that were powered by ultra low sulfur diesel fuel, utilized the best available retrofit technology, utilized such other authorized technology in accordance with this section or were equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter were used; and (vii) [all waivers, findings, and renewals of such findings, issued pursuant to subdivision g of this section, which shall include, but not be limited to, for each waiver, the quantity of diesel fuel needed by the contractor to power diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used to fulfill the requirements of a solid waste contract or recyclable materials contract; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and detailed information concerning the contractor's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and (viii)] all waivers issued pursuant to subdivision [h] g of this section, which shall include, but not be limited to, all findings and specific information submitted by the city agency or contractor upon which such waivers are based and the type of other authorized technology utilized in accordance with this section in relation to each waiver, instead of the best available retrofit technology.

(2) Where a determination is in effect pursuant to subdivision f of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision.

k.] j. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

[l.] k. Any contractor who violates any provision of this section[, except as provided in subdivision m of this section.] shall be liable for a civil penalty [of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such contractor for failure to comply with this section] in accordance with section 24-178 of the code.

[m.] l. Where a contractor has been found to have made a false claim with respect to the provisions of this section, such contractor shall be [liable for an additional civil penalty of twenty thousand dollars] *subject to enforcement*

pursuant to the provisions of chapter eight of title seven of the code.

[n.] m. This section shall not apply to any solid waste contract or recyclable materials contract entered into or renewed prior to [the effective date of this section] *September ninth, two thousand five.*

[o.] n. Nothing in this section shall be construed to limit the city's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualification as a vendor, or otherwise deny a person or entity city business.

§ 24-163.6 Use of best available retrofit technology by sight-seeing buses. a. Definitions. When used in this section:

(1) "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision d of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision d of this section, when considering the cost of the strategies, themselves, and the cost of installation.

(3) "Sight-seeing bus" means a motor vehicle designed to comfortably seat and carry eight or more passengers operating for hire from a fixed point in the city of New York to a place or places of interest or amusements, and shall also include a vehicle, designed as aforesaid which by oral or written contract is let and hired or otherwise engaged for its exclusive use for a specific or special trip or excursion from a starting point within the city of New York.

b. (1) Beginning January 1, 2007, any diesel fuel-powered sight-seeing bus that is licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code and that is equipped with an engine that is over three years old shall utilize the best available retrofit technology.

(2) Notwithstanding any provision of subdivision c of this section, any diesel fuel-powered sight-seeing bus that is licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code shall utilize the best available retrofit technology that meets the level 4 emission control strategy as defined in subdivision d of this section, or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, by January 1, 2017.

c. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered sight-seeing bus to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) No owner or operator of a diesel fuel-powered sight-seeing bus licensed pursuant to the provisions of subchapter 21 of chapter 2 of title 20 of the administrative code shall be required to replace best available retrofit technology or other authorized technology utilized for a diesel fuel-powered bus in accordance with the provisions of this section within three years of having first utilized such technology for such bus, except that technology that falls within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it has reached the end of its useful life.

d. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

e. The commissioner may issue a waiver for the use of the best available retrofit technology by a diesel fuel-powered sight-seeing bus where the department of consumer affairs makes a written finding, which is approved, in writing, by the commissioner, that such technology is unavailable for purchase for such bus, in which case the owner or operator of such bus shall be required to use the technology for reducing the emission of pollutants that would be the next best best available retrofit technology and that is available for purchase for such bus. Any waiver issued pursuant to this subdivision shall expire after three years. The commissioner shall not renew any waiver issued pursuant to this subdivision after January 1, 2014.

f. The requirements of subdivision b of this section shall not apply to a diesel-fuel powered sight-seeing bus that is equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

g. Not later than January 1, 2008, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of the best available retrofit technology by diesel fuel-powered sight-seeing buses during the immediately preceding fiscal year. This report shall include, but not be limited to: (i) the total number of diesel fuel-powered sight-seeing buses licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code; (ii) the number of such buses that utilized the best available retrofit technology, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iii) the number of such buses that utilized other authorized technology in accordance with this section, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv) the number of such buses that are equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter in accordance with subdivision f of this section; (v) the locations where such buses that utilized the best available retrofit technology, utilized such other authorized technology in accordance with this section or were equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter were used; (vi) the age of the engine with which each bus that did not utilize the best available retrofit technology is equipped; and (vii) all waivers issued pursuant to subdivision e of this section, which shall include, but not be limited to, all findings and specific information submitted by the department of consumer affairs or the owner or operator of a diesel fuel-powered sight-seeing bus upon which such waivers are based and the type of other authorized technology utilized in accordance with this section in relation to each waiver, instead of the best available retrofit technology.

h. Any owner or operator of a diesel fuel-powered sight-seeing bus who violates any provision of this section[, except as provided in subdivision i of this section.] shall be liable for a civil penalty [of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such owner or operator for failure to comply with this section] *in accordance with section 24-178 of the code.*

i. Where an owner or operator of a diesel fuel-powered sight-seeing bus has been found to have made a false claim with respect to the provisions of this section, such owner or operator shall be [liable for an additional civil penalty of twenty thousand dollars] *subject to enforcement pursuant to the provisions of chapter eight of title seven of the code.*

§ 24-163.7 Use of ultra low sulfur diesel fuel and best available retrofit technology in school bus transportation. a. Definitions. For the purposes of this section only, the following terms shall have the following meanings:

(1) "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision e of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

(2) "Department of education" means the New York city department of education, formerly known as the New York city board of education, and any successor agency or entity thereto, the expenses of which are paid in whole or in part from the city treasury.

(3) ["Person" means any natural person, partnership, firm, company, association, joint stock association, corporation or other legal entity.

(4) "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision e of this section, when considering the cost of the strategies, themselves, and the cost of installation.

[(5)] (4) "School bus" means any vehicle operated pursuant to a school bus contract, designed to transport ten or more children at one time, of the designation "Type C bus" or "Type D bus" as set forth in 17 NYCRR §§ 720.1(Z) and (AA), and used to transport children to or from any school located in the city of New York, and excluding any vehicle utilized primarily to transport children with special educational needs who do not travel to and from school in vehicles used to transport general education students.

[(6)] (5) "School bus contract" means any agreement between any person and the department of education to transport children on a school bus.

[(7)] "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.]

b. (1) Beginning July 1, 2006, any diesel fuel-powered school bus that is operated by a person who fuels such school bus at any facility at which ultra low sulfur diesel fuel is available, or of which such person has the exclusive use and control, or at which such person has the ability to specify the fuel to be made available, shall be powered by ultra low sulfur diesel fuel.

(2) Beginning September 1, 2006, any diesel fuel-powered school bus to which paragraph one of this subdivision does not apply shall be powered by ultra low sulfur diesel fuel.

c. Diesel fuel-powered school buses shall utilize the best available retrofit technology in accordance with the following schedule:

i. 50% of school buses used to fulfill each school bus contract by September 1, 2006;

ii. 100% of school buses used to fulfill each school bus contract by September 1, [2007] 2014.

d. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered school bus to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) No person shall be required to replace best available retrofit technology or other authorized technology utilized for a diesel fuel-powered school bus in accordance with the provisions of this section within three years of having first utilized such technology for such bus, except that technology that falls within Level 4, as set forth in subdivision e of this section, shall not be required to be replaced until it has reached the end of its useful life.

(3) For purposes of this subdivision, any best available retrofit technology, or substantially similar technology, purchased or installed in whole or in part with funds provided by the state of New York or the federal government pursuant to a specific diesel emissions reduction program in effect upon the date of enactment of this section, shall constitute the best available retrofit technology for a period of not less than three years from the date on which such equipment was installed.

e. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

f. [The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of subdivision b of this section if ultra low sulfur diesel fuel is not available to meet the needs of school buses to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months thereafter if such lack of availability persists, but in no event shall be in effect after September 1, 2006.

g. The commissioner may issue a waiver for the use of ultra low sulfur diesel fuel where the department of education makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section, is not available to meet the requirements of this section, provided that school buses, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available. Any waiver issued pursuant to this subdivision shall expire after two months, unless the city agency renews the finding, in writing, and the commissioner approves renewal, in writing.

h.] *Subdivision b of this section shall not apply to any school bus covered under a federal waiver for the use of ultra-low sulfur diesel fuel issued by the United States environmental protection agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) or any regulation promulgated thereunder, provided that the owner and operator of such school bus shall fully comply with the terms of such federal waiver, and the requirements of subdivision b of this section shall be in full force and effect upon the expiration of such federal waiver.*

g. The commissioner may issue a waiver for the use of the best available retrofit technology by a diesel fuel-powered school bus where the department of education makes a written finding, which is approved, in writing, by the commissioner, that such technology is unavailable for purchase for such bus, in which case the owner or operator of such school bus shall be required to use the technology for reducing the emission of pollutants that would be the next best available retrofit technology and that is available for purchase for such bus. Any waiver issued pursuant to this subdivision shall expire after three years.

[i.] h. Subdivision c of this section shall not apply to a diesel-fuel powered school bus that is equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

[j. (1)] i. Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology by school buses during the immediately preceding fiscal year. The information contained in this report shall also be included in the mayor's preliminary management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to: (i) the number of school buses used to fulfill the requirements of school bus contracts; (ii) the number of such buses that were powered by ultra low sulfur diesel fuel; (iii) the number of such buses that utilized the best available retrofit technology, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv) the number of such buses that utilized other authorized technology in accordance with this section, including a breakdown by vehicle model, engine age and the type of technology used for each vehicle; (v) the number of such buses that are equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter in accordance with subdivision [i] h of this section; (vi) the school districts where such

buses that were powered by ultra low sulfur diesel fuel, utilized the best available retrofit technology, utilized such other authorized technology in accordance with this section or were equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter were used; and (vii) [all waivers, findings and renewals of such findings issued pursuant to subdivision g of this section, which shall include, but not be limited to, for each waiver, the quantity of diesel fuel needed by the school bus owner or operator to power diesel fuel-powered school buses used to fulfill the requirements of a school bus contract; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and detailed information concerning the school bus owner's or operator's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and (viii)] all waivers issued pursuant to subdivision [h] g of this section, which shall include, but not be limited to, all findings and specific information submitted by the department of education or a school bus owner or operator upon which such waivers are based and the type of other authorized technology utilized in accordance with this section in relation to each waiver, instead of the best available retrofit technology.

[(2) Where a determination is in effect pursuant to subdivision f of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision.

k.]j. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the New York city charter; or

(3) where federal or state law prohibits the application of the requirements of this section.

[l.] k. Any person who violates any provision of this section[, except as provided in subdivision m of this section,] shall be liable for a civil penalty [of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such person for failure to comply with this section] *in accordance with section 24-178 of the code.*

[m.] l. Where a person has been found to have made a false claim with respect to the provisions of this section, such person shall be [liable for an additional civil penalty of twenty thousand dollars] *subject to enforcement pursuant to the provisions of chapter eight of title seven of the code.*

[n.] m. This section shall not apply to any school bus contract entered into or renewed prior to [the effective date of this section] *May ninth, two thousand five.*

[o.] n. Nothing in this section shall be construed to limit the authority of the department of education or of the city of New York to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity prequalification as a vendor, or otherwise deny a person or entity city business.

§ 24-163.8 Use of ultra low sulfur diesel fuel in diesel-powered generators used in the production of films, television programs and advertisements, and at street fairs. a. Definitions. When used in this chapter:

[(1)] "Alternative fuel" means a fuel, other than gasoline or standard diesel fuel, which may be used to power a generator subject to the provisions of this section so long as the respective quantities of each pollutant emitted by such generator when operated using such fuel do not exceed the respective quantities of each pollutant emitted when such generator is operated using ultra low sulfur diesel fuel.

[(2)] "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

[(3)] "Generator" means a machine or device that combusts fossil fuel to create electricity.

[(4)] "Person" means any natural person, partnership, firm, company, association, joint stock association, corporation or other legal entity.

[(5)] "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.]

b. (1) Any diesel-powered generator that is used to provide electrical power for equipment used in the production of any film, television program or advertisement, or for a street fair, where such production or street fair requires a permit from a city agency, shall be powered by ultra low sulfur diesel fuel.

(2) The mayor's office of film, theatre, and broadcasting shall issue to all film, television and advertising production companies that apply for a filming permit a notice that recites the provisions of this section and states that any diesel-powered generator that is utilized in a film, television or advertising production must use ultra low sulfur diesel fuel or an alternative fuel.

(3) The street activity permit office shall issue to all applicants for a street activity permit for a street fair a notice that recites the provisions of this section and states that any diesel-powered generator that is utilized for a street fair must use ultra low sulfur diesel fuel or an alternative fuel.

c. Any person who violates any provision of this section [or] *shall be liable for a civil penalty in accordance with section 24-178 of the code. Any person who* has been found to have made a false claim to a city agency with respect

to the provisions of this section shall be [liable for a civil penalty in the amount of five hundred dollars for each false claim to a city agency and five hundred dollars for each day in which they are otherwise in violation of such provision] *subject to enforcement pursuant to the provisions of chapter eight of title seven of the code.*

§ 24-163.9 Retrofitting of and age limitations on diesel fuel-powered school buses.

a. Definitions. For the purposes of this section only, the following terms shall have the following meanings:

(1) "Department of education" means the New York city department of education, formerly known as the New York city board of education, and any successor agency or entity thereto, the expenses of which are paid in whole or in part from the city treasury.

[(2)] "Person" means any natural person, partnership, firm, company, association, joint stock association, corporation or other legal entity.

[(3)] (2) "School bus" means any vehicle of the designation "Type A bus," "Type B bus," "Type C bus," or "Type D bus," as set forth in subdivisions x, y, z, and aa of section 720.1 of title seventeen of New York codes, rules and regulations, that is operated pursuant to a school bus contract and is used to transport children to or from any school located in the city of New York.

[(4)] (3) "School bus contract" means any agreement between any person and the department of education to transport children on a school bus.

b. Diesel fuel-powered school buses shall utilize a closed crankcase ventilation system, selected from among the mobile sources devices identified and approved as part of the diesel retrofit verified technologies list by the United States environmental protection agency or the list of currently verified diesel emission control strategies by the California air resources board, to reduce engine emissions to the school bus cabin, in accordance with the following schedule:

(1) fifty percent of diesel fuel-powered school buses used to fulfill each school bus contract shall be equipped with such a closed crankcase ventilation system by September 1, 2010;

(2) one hundred percent of diesel fuel-powered school buses used to fulfill each school bus contract shall be equipped with such a closed crankcase ventilation system by September 1, 2011;

c. Diesel fuel-powered school buses shall not be used to fulfill any school bus contract beyond the end of the sixteenth year from the date of manufacture, as noted on the vehicle registration, or the end of the school year in which that date falls, whichever is later.

d. School buses shall be replaced pursuant to subdivision c of this section with (1) a school bus meeting the most recent diesel engine emissions standards issued by the United States environmental protection agency, or (2) an all-electric, gasoline-powered, compressed natural gas, or hybrid school bus, as long as the particulate matter emissions of such school bus do not exceed emission levels permitted in the most recent diesel engine emissions standards issued by the United States environmental protection agency.

e. No later than December 31, 2011, and no later than December 31 of every year thereafter, the department of education shall submit a report to the mayor and the speaker of the council on compliance with this section. Such report shall include, but not be limited to, data on the age and crankcase ventilation retrofit status of every school bus pursuant to a school bus contract. The department of education shall also perform yearly reviews on a sample of school buses from at least ten different vendors to verify the accuracy of data reported.

f. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the New York city charter; or

(3) where federal or state law prohibits the application of the requirements of this section.

g. Any person who violates any provision of this section[, except as provided in subdivision h of this section,] shall be liable for a civil penalty [of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such person for failure to comply with this section] *in accordance with section 24-178 of the code.*

h. Where a person has been found to have made a false claim with respect to the provisions of this section, such person shall be [liable for an additional civil penalty of twenty thousand dollars] *subject to enforcement pursuant to the provisions of chapter eight of title seven of the code.*

i. Nothing in this section shall be construed to limit the authority of the department of education or of the city of New York to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity prequalification as a vendor, or otherwise deny a person or entity city business.

§24-163.10 Use of auxiliary power units in ambulances. a. When used in this section, "auxiliary power unit" means a device located on or in a vehicle that supplies cooling, heating and electrical power to such vehicle while the vehicle's engine is turned off. Not later than January first, two thousand fourteen, the fire department shall develop and implement a pilot project for a period of not less than one year to ascertain the benefits and reliability of utilizing auxiliary power units in ambulances operated by the city of New York. Such pilot project shall employ auxiliary power units to power the ambulance's electrical load, diagnostic devices, ancillary electrical equipment, tools and cabin temperature without the need to engage the engine or use another source of power.

b. Not later than July first, two thousand fifteen, the fire department

shall submit a report to the mayor and the speaker of the council detailing the findings of such pilot project, including but not limited to data on actual reduction in vehicular emissions, and a cost-benefit analysis for equipping the entire ambulance fleet with auxiliary power units.

§ 24-163.11 *Mobile food vending units.* Any mobile food vending unit that is equipped with an auxiliary engine that meets applicable tier four emissions standards established by the United States environmental protection agency as set forth in section 1039.101 of title forty of the code of federal regulations or any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent, or that uses an alternative fuel, as defined by the rules of the department, shall be entitled to a waiver of any fee established by the department for the registration of such engine pursuant to section 24-109 of the code. Any waiver issued pursuant to this subdivision shall expire after six years.

§ 24-163.12 *Trade Waste Vehicles.* a. *Definitions.* When used in this section:

(1) “Best available retrofit technology” means technology verified by the United States environmental protection agency or the California air resources board for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies that is applicable to the particular engine and application.

(2) “Heavy duty trade waste hauling vehicle” means any diesel-fuel powered vehicle with a gross weight of over sixteen thousand pounds that is owned or operated by an entity that is required to be licensed or registered by the New York city business integrity commission pursuant to section 16-505 of the code and that is operated in New York city for collection and/or removal of trade waste.

(3) “Trade waste” shall have the same meaning as set forth in subdivision f of section 16-501 of the code.

b. *Use of best available retrofit technology in heavy duty trade waste hauling vehicles.*

(1) Beginning January first, two thousand twenty, any heavy duty trade waste hauling vehicle shall utilize best available retrofit technology or be equipped with an engine certified to the applicable two thousand seven United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title forty of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

(2) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of heavy duty commercial waste hauling vehicle to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

c. *Waivers. Financial hardship.* The chairperson of the business integrity commission may issue a waiver of the requirements of paragraph one of subdivision b of this section if the chairperson finds that the applicant for such waiver has demonstrated that compliance with such requirements would cause undue financial hardship on the applicant. An application for such waiver must be filed with the business integrity commission on or before July first, two thousand nineteen or no later than one hundred eighty days before the applicant for such waiver would be required to be licensed or registered by the New York city business integrity commission pursuant to section 16-505 of the code, provided that an application for renewal of an existing waiver must be filed no later than one hundred eighty days before the expiration of such waiver. Any waiver issued pursuant to this paragraph shall expire no later than two years after issuance. All waivers issued pursuant to this subdivision shall expire no later than January first, two thousand twenty-five.

d. *Enforcement*

(1) In addition to the department, the business integrity commission shall have the authority to enforce paragraph one of subdivision b of this section and shall have the power to issue notices of violation for violations of such paragraph.

(2) Any owner or operator of a heavy duty trade waste hauling vehicle who violates any provision of this section shall be liable for a civil penalty in accordance with section 24-178 of the code. All notices of violation issued in accordance with this section shall be returnable to the board.

(3) Nothing in this section shall be construed to limit the authority of the business integrity commission to deny, suspend or revoke any license or registration in accordance with chapter one of title 16-A of the code or otherwise enforce the provisions of such chapter.

(4) The business integrity commission shall have the authority to promulgate any rules necessary to enforce the provisions of this section, including but not limited to establishing criteria for the issuance of waivers pursuant to subdivision c of this section and establishing procedures for owners and operators of heavy duty trade waste hauling vehicles to demonstrate compliance with the requirements of this section.

§ 24-164 *Operation of soot blower of vessels prohibited.* No person shall cause or permit the soot blower of a vessel, other than a vessel which travels only in waters within the jurisdiction of the city of New York, to operate while the vessel is within the waters of the city.

§ 24-165 *Use of air contaminant [detector; use of contaminant recorder; recording of time, duration, concentration and density of air contaminant] detectors and recorders.* (a) Whenever the use of an air contaminant detector is required by this code, the air contaminant detector must automatically cause both an audible signal sufficiently loud to be heard by a person of normal hearing twenty feet from the detector and a readily visible flashing red light upon the emission of an air

contaminant of a density which appears darker than number one on the standard smoke chart, or of an opacity which obscures vision to a degree greater than smoke of number one density on the standard smoke chart.

(b) The [signalling] *signaling* devices of the air contaminant detector shall also be located at the principal work location of the person supervising the equipment.

(c) If two or more units of equipment are connected to a single flue, one air contaminant detector may be used if installed to monitor all of the units.

(d) If the light source of a photoelectric type of air contaminant detector fails to operate properly, the detector must automatically cause an audible signal sufficiently loud to be heard by a person of normal hearing twenty feet away from the detector and a readily visible flashing red light which shall continue to operate until manually reset.

(e) Whenever the use of an air contaminant recorder is required by this code, the air contaminant recorder must:

(1) continuously produce a record of the time, duration, concentration and density of an air contaminant of a density which appears darker than number one on the standard smoke chart, or of an opacity which obscures vision to a degree greater than number one; or

(2) continuously produce a record of the time, duration, and concentration of sulfur dioxide and nitrogen oxides by volume and particulate matter by weight.

(f) [Except as provided in section 24-171 of this code, the] *The* record made by the air contaminant recorder shall be dated and retained on the premises where the recorder is located for a period of sixty days from the last date appearing on the record.

§ 24-166 *Use of combustion shutoff; halting of emission of air contaminant.* (a) Whenever the use of a combustion shutoff is required by this code or by the commissioner, the combustion shutoff must automatically halt the operation of fuel burning equipment using fuel oil within two minutes after the emission of an air contaminant of a density which appears darker than number one on the standard smoke chart, or of an opacity which obscures vision to a degree greater than smoke of number one density on the standard smoke chart.

(b) No person shall cause or permit the resumption of the normal operation of the fuel burning equipment whose operation was halted by a combustion shutoff until the equipment operates in accordance with the standards of this code.

§ 24-167 *Improper use of equipment or apparatus prohibited.* No person shall use or permit the use of equipment or apparatus for a purpose or in a manner which causes it to function improperly or not in accordance with its design. Nothing in this section shall be construed to prohibit the use of bioheating fuel in equipment that may be adapted for such use.

§ 38. Subchapter 8 of chapter 1 of title 24 of the administrative code of the city of New York, subdivision (a) of section 24-168 as amended by local law number 43 for the year 2010, section 24-168.1 as added by local law number 43 for the year 2010, subdivisions (a) and (b) of section 24-169 as amended by local law number 43 for the year 2010, and section 24-173 as amended by local law number 93 for the year 1985 and as redesignated pursuant to section 14 of chapter 907 of the laws of 1985, is amended to read as follows:

SUBCHAPTER 8
FUEL STANDARDS

§ 24-168 *Use of proper fuel in fuel burning equipment.* (a) No person shall cause or permit the use of a kind or grade of fuel in fuel burning equipment [which] *that* is not designed to burn that kind or grade of fuel. Nothing in this subdivision shall be construed to prohibit the use of bioheating fuel in *fuel* burning equipment that [may be] *is* adapted for such use.

(b) No person shall cause or permit the burning of refuse material in fuel burning equipment unless the equipment is designed to burn refuse material.

(c) *No person shall cause or permit a boiler to burn residual fuel on or after January first, two thousand twenty.*

(d) *No person shall cause or permit a boiler to burn fuel oil grade no. 4 on or after January first, two thousand thirty.*

(e) *No person shall cause or permit the use of a kind or grade of fuel in a diesel powered generator other than ultra low sulfur diesel.*

§ 24-168.1 *Clean heating oil.* (a) *Definitions.* For the purpose of this section, the following terms shall have the following meanings:

(1) [“Biodiesel” shall mean a fuel, designated B100, that is composed exclusively of mono-alkyl esters of long chain fatty acids derived from feedstock and that meets the specifications of the American Society of Testing and Materials designation D 6751-09a.

(2) “Bioheating fuel” shall mean a fuel comprised of biodiesel blended with petroleum heating oil that meets the specifications of the American Society of Testing and Materials designation D 396-09a or other specifications as determined by the commissioner.

(3) [“District steam system” shall mean a system for the production of steam and for its transmission and distribution through underground pipelines to multiple buildings.

[(4) “Emergency generator” shall mean a machine or device that combusts fuel to create electricity and that is used for the purpose of providing backup power in the event of a general interruption in electrical service.

(5) (2) “Feedstock” shall mean soybean oil, oil from annual covercrops, algal oil, biogenic waste oils, fats or greases, or non-food grade corn oil, provided that the commissioner may modify the definition of feedstock based on the vegetable oils, animal fats or cellulosic biomass listed in table 1 of 40 C.F.R. § 80.1426.

[(6)] (3) "Heating oil" shall mean oil refined for the purpose of use as fuel for combustion in a heating system and that meets the specifications of [the American Society of Testing and Materials] *ASTM* designation D [396-09a] 396-12 or other specifications as determined by the commissioner.

[(7)] (4) "Heating system" shall mean a system that generates heat, hot air, hot water or steam by combustion and distributes it within a building, *provided that "heating system" shall not include wood burning stoves.*

[(8)] "Renewable biomass" shall mean crops and crop residue from existing agricultural land, tree residues, animal waste material and byproducts, slash and pre-commercial thinnings from non-federal forest lands, biomass cleared from the vicinity of buildings and other areas to reduce the risk of wildfire, algae, and separated yard waste or food waste. Such term shall not include processed materials such as particle board, treated or painted wood, and melamine resin-coated panels.

(9) "Renewable fuel" shall mean fuel produced from renewable biomass.]

(b) (1) After October 1, 2012, no person shall cause or permit the use in any building in the city or deliver to any building in the city for use in such building, heating oil that is fuel oil grade no. 2[,] or no. 4 or [no. 6 containing] *residual fuel if such heating oil contains* less than two percent biodiesel by volume. The provisions of this subdivision shall not apply to the use or delivery of heating oil for use in an emergency generator or for use in a boiler where heating oil from a dual-use tank supplies both such boiler and an emergency generator.

(2) The commissioner may authorize the use of any renewable fuel in heating systems if he or she determines that such fuel meets an applicable [American Society for Testing and Materials] *ASTM International* standard or other standard as determined by the commissioner, and the emissions from such fuel contain equal or lesser amounts of particulate matter, sulfur dioxide and nitrogen oxides than the emissions from fuel oil grade no. 2.

(c) The commissioner may waive the requirements of paragraph [1] *one* of subdivision b of this section in accordance with the provisions of this subdivision.

(1) A waiver may be issued for a particular type of boiler or fuel if the commissioner finds that:

(i) a sufficient quantity of bioheating fuel containing two percent biodiesel is not available in the city for that boiler type;

(ii) the price of available bioheating fuel for that boiler type is at least fifteen percent more than the price of a comparable fuel oil grade of one hundred percent petroleum heating oil;

(iii) the use of bioheating fuel would void the manufacturer's warranty for that boiler type; or

(iv) there is no applicable [American Society of Testing and Materials] *ASTM International* standard or other standard as determined by the commissioner to govern the specification of the bioheating fuel for purposes of receiving bids and enforcing contracts.

(2) Any waiver issued pursuant to subparagraph (i) or (ii) of paragraph [1] *one* of this subdivision shall expire after three months, unless renewed in writing by the commissioner.

(3) Any waiver issued pursuant to subparagraph (iii) or (iv) of paragraph [1] *one* of this subdivision shall expire after six months, unless renewed in writing by the commissioner.

(4) A waiver may be issued for a specific district steam system if the commissioner finds based on documentation submitted by the applicant, including but not limited to a report certified by a professional engineer, that compliance with the requirements of paragraph [1] *one* of subdivision b of this section would result in damage to equipment used to generate steam within such district steam system. Any waiver issued pursuant to this paragraph shall expire after one year, unless renewed in writing by the commissioner.

(d)(1) No later than September [1, 2013] *first, two thousand thirteen*, and no later than September [1] *first* of every year thereafter, the commissioner shall submit a report to the mayor and the speaker of the council, which shall include:

(i) all waivers, findings and renewals of such findings issued pursuant to this section during the immediately preceding calendar year;

(ii) a summary of the information received pursuant to subdivision e of this section;

(iii) all waivers, findings and renewals of such findings issued pursuant to subdivision b of section 24-169 of this code during the immediately preceding calendar year; and

(iv) determinations made by the commissioner regarding renewable biomass pursuant to paragraph [2] *two* of subdivision b of this section and any recommendations with respect to the use of renewable biomass in the city, considering appropriate standards and experiential use.

(2) The report required pursuant to this subdivision may be satisfied by including such information in the management report and preliminary management report made public and submitted to the council by the mayor pursuant to section twelve of the New York city charter.

(e)(1) The commissioner shall require persons who supply heating oil directly to buildings in the city to disclose annually to the commissioner the following information regarding fuel oil supplied:

(i) the amount in gallons of each fuel oil grade supplied by such person to buildings by zip code; and

(ii) the average percentage of biodiesel blended into each fuel oil grade supplied by such person within the city and the types of feedstock used in the creation of such biodiesel.

(2) The commissioner shall prescribe the form in which required information shall be reported annually to the department. Such form shall be certified by the person supplying the information as to the completeness and accuracy of the information provided.

(3) The department shall require that records be maintained to substantiate the information provided pursuant to this subdivision and that such records shall be made available for inspection and audit by the department for a period up to three years.

(f) *The department shall require that building owners who receive shipments of heating oil maintain such records as may be required by the commissioner by rule and make available such records for inspection and audit by the department for a period of up to three years.*

(g) The term "fuel oil" as used in any provision of the administrative code of the city of New York or the rules of the city of New York shall be deemed to include heating oil that is fuel oil grade no. 2, no. 4 or no. 6 containing biodiesel.

[(g)] The commissioner shall promulgate rules to carry out the provisions of this section.]

(h) The commissioner shall have the authority to sample, test and analyze heating oil supplied to buildings in the city to determine compliance with this section.

§ 24-169 Sulfur content of fuel restricted. Except for ocean-going vessels engaged in international or interstate trade, no person[, other than one having a sulfur exemption certificate,] shall cause or permit the use, or if intended for use in New York city, the purchase, sale, offer for sale, storage or transportation of:

(a) Fuel oil grade no. 2 [as classified by the American Society for Testing and Materials] that contains more than [0.2 percent of sulfur by weight and after June 30, 2012, more than] the amount of *sulfur* set forth in section 19-0325 of the environmental conservation law or as provided by an executive order of the governor issued pursuant to such section.

(b) Residual fuel oil and fuel oil grade no. 4 [as classified by the American Society for Testing and Materials or solid fuel on a dry basis] that [contains] *contain* more than the following percentages of sulfur by weight:

(1) *for residual fuel oil* 0.30 percent and

(2) for fuel oil grade no. 4 [after October 1, 2012,] more than 0.15 percent, provided that the commissioner may waive the requirements of this paragraph if the commissioner finds that there is an insufficient quantity of fuel oil grade no. 2 that contains no more than 0.0015 percent of sulfur by weight. Any waiver issued pursuant to this subdivision shall expire after three months, unless renewed in writing by the commissioner. The [provisions of] *percentage provided in* paragraph [1] *one* of this subdivision shall apply *as the maximum percentage for fuel oil grade no. 4* during the period such waiver is in effect.

(c) [Residual fuel oil or fuel oil grade no. 4 as classified by the American society for testing and materials used in facilities for the generation of steam for off-premises sale and electricity, which contains more than the following percentages of sulfur by weight:

(1) For a period ending October first, nineteen hundred seventy-one, one percent;

(2) For a period ending October first, nineteen hundred seventy-two, an annual average of 0.55 percent;

(3) After October first, nineteen hundred seventy-two, 0.30 percent.

(d) Those facilities burning solid fuel which are operated in compliance with this code may, at the discretion of the commissioner, continue to burn solid fuel containing up to 0.7 percent sulfur after October first, nineteen hundred seventy-one, provided that there is no increase or expansion of use and further provided that a report, satisfactory to the commissioner, is submitted setting forth a detailed program, including a specific time schedule, for the termination of use of such solid fuel.

(e)] Sulfur by weight shall be calculated by the methods of the [American society for testing and materials] *ASTM designation D 2622-10*.

[§ 24-170 Reporting of fuel supplies. The owner of any boiler with a capacity of five hundred million Btu per hour or more shall report fuel supply information to the commissioner on or before the first day of each month.

§ 24-171 Sulfur exemption certificates. (a) Except for fuel burning equipment that must comply with the sulfur dioxide emission standards of section 24-144 of this code, the commissioner may grant a certificate of exemption from the sulfur content restrictions of section 24-169 of this code if the applicant establishes to the satisfaction of the commissioner that the fuel burning equipment is operated in such a manner, or is equipped with such control apparatus, as to continuously prevent the emission of any sulfur compound or compounds in an amount greater than that which would have been emitted from the same fuel burning equipment, if operated, in the absence of control apparatus, using fuel which complies with the sulfur content restrictions of section 24-169 of this code.

(b) The commissioner may grant a temporary certificate of exemption from the sulfur content restrictions of section 24-169 of this code, if the applicant establishes to the satisfaction of the commissioner that the application is for the purpose of conducting an experimental operation prior to application for a sulfur exemption certificate.

(c) A sulfur exemption certificate shall be valid for one year from the date granted or renewed, unless sooner suspended or revoked. Application for renewal shall be made by the holder of the certificate, and shall be postmarked, or where personally delivered, date stamped by the department no later than ninety days prior to the expiration of the certificate. The commissioner may renew a sulfur

exemption certificate if he or she is satisfied that the provisions of this code and the conditions and terms contained in the certificate will be met.

(d) Any sulfur exemption certificate or temporary sulfur exemption certificate issued by the commissioner shall be limited to the kind and amount of fuel specified, and to use in the equipment described, and may be further limited as determined by the commissioner.

(e) A separate application for a sulfur exemption certificate or temporary sulfur exemption certificate shall be made for each unit of fuel burning equipment for which exemption is sought.

(f) In addition to the conditions and limitations for the issuance of a sulfur exemption certificate or temporary sulfur exemption certificate specified in this section, the commissioner may provide such further conditions or limitations as he or she may deem appropriate.

(g) A temporary sulfur exemption certificate shall be valid for three months from the date granted or renewed, unless sooner suspended or revoked. The commissioner may renew a temporary certificate no more than once upon application which is postmarked or dated by the department no later than fourteen days prior to the expiration of the certificate.

§ 24-172 Volatile content of solid fuel restricted. (a) No person shall cause or permit the use of solid fuel as the normal boiler fuel which contains more volatile matter by weight in any part thereof than:

- (1) If used in equipment which is hand-fed, fourteen percent; or
(2) If used in equipment which is mechanically fed, thirty-two percent.

(b) Volatile matter shall be calculated on a moisture and ash-free basis.]

§ 24-173 Use of [solid fuel] coal. (a) [Except as provided in subdivision (c) of this section, no person shall cause or permit the use of solid fuel in fuel burning equipment to provide heat or hot water for any structure or any part thereof, other than the generation of steam for off-premises sale.

(b) No person shall cause or permit the use of solid fuel in fuel burning equipment for any purpose whatsoever, unless he or she has complied with subdivision (c) of this section. No person shall cause or permit the use of bituminous coal in fuel burning equipment, for which an operating certificate or certificate of registration is required pursuant to this chapter for any purpose whatsoever.

(c) Solid fuel, unless otherwise prohibited by this section, may be used for fueling boilers used for on-site space heating, provided that:

- (1) No expansion of capacity of the boiler shall be made over capacity existing on May twentieth, nineteen hundred sixty-eight; and
(2) Only anthracite coal is used; or
(3) The solid fuel shall meet the following criteria:
(a) Volatile content shall not exceed thirty-two percent by weight.
(b) Fixed carbon shall not be lower than sixty-six percent by weight.

- (c) Ash shall not exceed four percent by weight.
(d) Sulfur shall not exceed 0.7 percent by weight.
(e) Heating value shall not be less than fourteen thousand seven hundred fifty Btu/lb.

All the above criteria shall be measured on a dry basis.] No person shall cause or permit the use of any type of coal in fuel burning equipment, except for the use of anthracite coal in one of the following:

- (1) in the generation of electricity for utilities;
(2) as provided in section 24-149.5 of this code; or
(3) in boilers used for onsite space heating provided that there has been no expansion of capacity of the boiler over the capacity existing on May twentieth, nineteen hundred sixty-eight.

[§ 24-174 Lead content of gasoline restricted. (a) No person shall cause or permit the use, or, if intended for use in the city of New York, the purchase, sale, offer for sale, storage or transportation of gasoline which contains more than the following amount of lead by weight for the respective octane ranges as follows:

Table with 2 columns: Octane No.* & Above, Below 95.9 Octane No.*. Rows list lead content in grams per gallon for various dates from 1971 to 1974.

* The term octane number shall mean research octane number or rating measured by the research method.

(b) Where the lead content of gasoline is restricted to zero grams per gallon as in subdivision (a) of this section, gasoline which contains 0.075 grams of lead per gallon shall be deemed to meet such restriction.

§ 24-175 Volatility limits on gasoline. Effective October first, nineteen hundred seventy-one, no person shall cause or permit the use, or, if intended for use in the city of New York, the purchase, sale, offer for sale, storage or transportation of gasoline which exceeds the following volatility limits:

(a) For the period October first, through April thirtieth, not to exceed twelve Reid vapor pressure.

(b) For the period May first through September thirtieth, not to exceed seven Reid vapor pressure.]

§ 24-176 Fuel information ticket required for shipment or delivery of fuel into New York city. No person[, other than a dealer in solid fuel who complies with section 20-626 of the code,] shall cause or permit the shipment or delivery of fuel into New York city for use in the city without first reporting the shipment or delivery on a form prescribed by the department to be known as a fuel information ticket. A fuel information ticket shall not be required for fuel shipped into New York city in the engine fuel tank of a motor vehicle. A shipment or delivery includes any sale or non-sale transaction, or any transaction between shipper and recipient who are identical.

§ 24-177 General requirements for fuel information tickets. (a) Each fuel information ticket shall contain the following statement signed by the shipper of the fuel: "I hereby attest that I have shipped to the recipient named hereon the fuel specified in this ticket."

(b) Copies of the fuel information ticket required to be retained by the shipper of fuel by subdivision (c) of this section shall be kept at the shipper's place of business. The copy of the fuel information ticket required to be retained by the recipient of the fuel by subdivision (c) of this section shall be kept at his or her place of business or at the place where the delivery was received.

(c) All records relating to the use of fuel, or the distribution, storage or transportation of fuel for use in the city of New York shall be retained for not less than one year and shall be kept readily available at all times during business hours for inspection by the department.

(d) This section shall apply to all shipments of fuel into the city and it shall be no defense to non-compliance that the shipment was not made pursuant to a sales transaction between the shipper and the recipient or that the shipper and the recipient are identical.

§ 39. Section 24-178 of the administrative code of the city of New York, subparagraph (i) of paragraph 5 of subdivision (b), as amended by local law number 57 for the year 1989 and civil penalties as added by local law number 6 for the year 1991, local law number 77 for the year 2003, local law number 25 for the year 2004, local law number 40 for the year 2005, local law number 41 for the year 2005, local law number 42 for the year 2005, local law number 37 for the year 2009, and local law number 43 for the year 2010, subparagraph (iii) of paragraph 5 of subdivision (b) and paragraphs 7 and 8 of subdivision (b) as amended by local law number 57 for the year 1989, is amended to read as follows:

§ 24-178 Powers of the board. (a) [The board, in addition to other duties assigned to it by law, shall have the power to conduct hearings pursuant to this chapter and, by the issuance of a subpoena, compel the attendance of witnesses and the production of any books, papers or other things relating to the matter under investigation.

(b) The board may, upon notice pursuant to this chapter, and after a hearing pursuant to [section 24-184 of this code, or in default thereof pursuant to section 24-185 of this code:

(1) Order the commissioner to revoke or suspend a permit or certificate issued pursuant to this code for any equipment or apparatus, where such equipment or apparatus causes, or is maintained or operated, so as to cause a violation of any provision of this code or order or regulation promulgated by the commissioner or the board.

(2) Order the owner of any equipment or apparatus, which causes or is maintained or operated so as to cause a violation of any provision of this code, or any order or regulation promulgated by the commissioner or the board, to install any apparatus which can reasonably be expected to correct the violation, or to clean, repair, properly maintain, replace or alter such equipment or apparatus in a manner which can reasonably be expected to correct the violation;

(3) Seal] the rules of the board:

(1) Order the commissioner to seal any equipment or apparatus which causes or is maintained or operated so as to cause a violation of any provision of this code or order or [regulation] rule promulgated by the commissioner or the board, except as provided in subdivision [(c)] (b) of this section;

[(4)] (2) Order any person to cease and desist from any activity or process [which] that causes or is conducted so as to cause, a violation of any provision of this code or any order or regulation promulgated by the commissioner or the board, except as provided in subdivision [(c)] (b) of this section;

[(5) (i) Impose a civil penalty in each instance in an amount as hereinafter set forth in the table of civil penalties, including schedules E, F and G of civil penalties for equipment requiring operating certificates, except as provided in paragraph six of this subdivision, against any person who violates any provision of this code or of any order, rule or regulation promulgated thereunder.

TABLE OF CIVIL PENALTIES

Violations related to section, Civil Penalties subdivision and paragraph Maximum Minimum

Table with 2 columns: Violation Code, Maximum Minimum. Rows list specific violation codes and their corresponding penalties.

section involving incinerators
with grates having cross
sectional areas of less than
twenty-five square feet..... 6,000 1,500 In case of violation of this
section involving incinerators
with grates having cross
sectional areas equal to or
greater than twenty-five square
feet..... 20,000 5,000 24-119(a)..... 4,000 1,000
24-120..... As Per Schedule As Per Schedule
E, F, or G, E, F, or G,
whichever is whichever is
applicable applicable 24-122(a)..... As Per Schedule As Per Schedule
E, F, or G, E, F, or G,
whichever is whichever is
applicable applicable 24-122(b)(1)..... As Per Schedule E As Per Schedule
E
24-122(b)(2)..... As Per Schedule F As Per Schedule F
24-122(b)(3)..... As Per Schedule E As Per Schedule E
24-122(b)(4)..... As Per Schedule G As Per Schedule G
24-122(b)(5)..... As Per Schedule As Per Schedule E, F, or G, E, F, or G,
whichever is whichever is
applicable applicable
24-141 In the case of violations of this
section by operation of equipment
or apparatus requiring operating
or registration certificates . As Per Schedule As Per Schedule
E, F, or G, E, F, or G,
whichever is whichever is
applicable applicable In the case of violations of this
section by sources other than
those requiring operating or
registration certificates..... 1,000 250
24-142..... As Per Schedule As Per Schedule
E, F, or G, E, F, or G,
whichever is whichever is
applicable applicable
24-144..... As Per Schedule As Per Schedule
E or F, E or F,
whichever is whichever is
applicable applicable
24-145..... As Per Schedule As Per Schedule
E or F, E or F,
whichever is whichever is
applicable applicable
24-146(a)..... 1,750 440 24-146(b)..... 12,000 3,000

24-146(c)..... 1,750 440 24-146(d)..... 1,400 350
24-146(e)..... 1,750 440 24-146(f)..... 3,000 750
24-146.1; provided that such
\$1,000-\$10,000 penalty shall not
apply to violations of 24-146.1(b)(1)..... 10,000 1,000
24-146.1(b)(1)..... 1,000 250 24-146.3..... 15,000 1,000
24-147..... 3,500 815 24-148..... 2,625 660
24-150..... 500 125 24-151..... 3,500 875
24-153..... As Per Schedule As Per Schedule
E or F, E or F,
whichever is whichever is
applicable applicable 24-155..... As Per Schedule As Per Schedule
E, F, or G, E, F, or G,
whichever is whichever is
applicable applicable 24-156..... As Per Schedule As Per Schedule
E, F, or G, E, F, or G,
whichever is whichever is
applicable applicable 24-160..... As Per Schedule E As Per Schedule E
24-162(a)..... As Per Schedule G As Per Schedule G
24-162(c)..... As Per Schedule G As Per Schedule G
24-163; provided that a minimum
penalty of \$330 and a maximum
penalty of \$1,500 shall apply to
a second violation of such
section by the same respondent
within a period of two years and
a minimum penalty of \$440 and a
maximum penalty of \$2,000 shall
apply to a third or subsequent
violation of such section by the
same respondent within a period
of two years.....
1,000 220 24-163.2..... 5,000 1,000 24-163.3; plus twice the amount of
money saved by the contractor for
failure to comply with such
section; provided that such
\$1,000 - \$10,000 penalty and
additional penalty shall not
apply to violations of 24-163.3(o) 10,000 1,000 24-163.3(o); plus twice the amount
of money saved by the contractor
in association with having made
such false claim..... 20,000 20,000 24-163.5; plus twice the amount of
money saved by the contractor for
failure to comply with such
section; provided that such

\$1,000 - \$10,000 penalty and additional penalty shall not apply to 24-163.5(m)..... 10,000 1,000 24-163.5(m)..... 20,000 20,000

24-163.6; plus twice the amount of money saved by the owner or operator of a sight-seeing bus for failure to comply with such section; provided that such \$1,000 - \$10,000 penalty and additional penalty shall not apply to 24-163.6(i)..... 10,000 1,000 24-163.6(i)..... 20,000 20,000

24-163.7; plus twice the amount of money saved by the school bus owner or operator for failure to comply with such section; provided that such \$1,000 - \$10,000 penalty and additional penalty shall not apply to 24-163.7(m)..... 10,000 1,000 24-163.7(m)..... 20,000 20,000

24-164..... 1,750 440 24-165..... As Per Schedule As Per Schedule

E, F, or G, E, F, or G, whichever is whichever is applicable applicable 24-168..... As Per Schedule As Per Schedule

E, F, or G, E, F, or G, whichever is whichever is applicable applicable 24-168.1(b); provided that the penalty specified herein shall apply only to a violation by reason of the use or purchase of fuel oil that does not conform to the standards in such subdivisionAs Per Schedule E As Per Schedule E

24-168.1(b); plus twice the amount of money saved for failure to comply with such section; provided that such \$1,000-\$10,000 penalty and additional penalty shall apply only to a violation by reason of the delivery of fuel oil that does not conform to the standards in such subdivision. 10,000 1,000 24-169 (a), (b) and (c); provided that the civil penalty specified herein shall apply only to a violation by reason of the use or purchase of fuel oil which does not conform to the standards in

such subdivision..... As Per Schedule As Per Schedule

E, F, or G, E, F, or G, whichever is whichever is applicable applicable 24-169 (a), (b) and (c); provided that such \$1,500-\$6,000 civil penalty shall apply only to a violation by reason of the standards set forth in such subdivisions..... \$6,000 1,500

24-173(a)..... As Per Schedule As Per Schedule

E or F, E or F, whichever is whichever is applicable applicable 24-173(c)(1)..... As Per Schedule E As Per Schedule E

24-174(a); provided that such \$220-\$875 civil penalty shall apply only to a violation by reason of use or purchase of gasoline which does not conform to standards set forth in such subdivision 875 220 24-174(a); provided that such \$660-\$2,650 civil penalty shall apply only to a violation by reason of the sale, storage or transportation of gasoline which does not conform to the standards set forth in such subdivision. 2,650 660 24-175; provided that such \$220-\$875 civil penalty shall apply only to a violation by reason of the use or purchase of gasoline which does not conform to the standards set forth in such section 875 220 24-175; provided that such \$660-\$2,650 civil penalty shall apply only to a violation by reason of the sale, offer for sale, storage or transportation of gasoline which does not conform to the standards set forth in such section..... 2,650 660 All remaining sections, subdivisions and paragraphs... 875 220

=====

CIVIL PENALTY SCHEDULES FOR EQUIPMENT REQUIRING OPERATING CERTIFICATES

SCHEDULE E--PENALTIES FOR FUEL BURNING EQUIPMENT

Gross Input or Designed Fuel Consumption of Equipment in Millions of BTU/hr

=====

#4 or #6 Fuel Oil & Gasoline, #2 Fuel Oil Civil Penalties

Solid Fuels and Nat. Gas Max. Min.

less than 2.8	less than 2.8	\$1,400	\$ 350
2.8 to less than 21	2.8 to less than 50	1,800	450
21 to less than 42	50 or greater	3,000	750
42	or	greater	4,000
			1,000

SCHEDULE F--PENALTIES FOR OTHER THAN FUEL

OR REFUSE BURNING EQUIPMENT

Emission Rate in Civil Penalties Based on Environmental

Cubic Feet per Minute Ratings as Contained in Section 24-153

Env. Rating A Env. Rating B Env. Rating C Env. Rating D

Max. Min. Max. Min. Max. Min. Max. Min.

Less	than	5,000	\$6,000	\$1,500	\$4,000	\$1,000	\$3,000	\$ 750	\$2,000	\$ 500
5,000	to	less	than	20,000	8,000	2,000	6,000	1,500	4,000	1,000
20,000	or	greater	12,000	3,000	8,000	2,000	6,000	1,500	5,000	1,000

SCHEDULE G--PENALTIES FOR REFUSE BURNING EQUIPMENT

Maximum Horizontal Inside Cross Sectional

Area of Primary Combustion Chamber in Civil Penalties

Square Feet Max. Min.

_25 or less.....	\$1,600	\$400
25-40.....	2,000	500
Above	40.....	3,000
		750

ii) Impose a separate penalty for each day on which a violation under this code shall have occurred.

(iii) Remit, in whole or in part, such civil penalty if, at the conclusion of the hearing, or at the time of the board determination under section 24-187 of this code, or at the date on which a stipulation is executed by the parties in settlement of the proceeding pursuant to section 24-183 of this code, the respondent is no longer in violation of a provision of this code or of any order, rule or regulation promulgated thereunder and is not in default under section 24-185 of this subchapter.

(iv) Impose an additional civil penalty, in the amount of ten per cent (10%) of the penalty originally imposed, for late payment of penalty for each month or part thereof that the penalty payment is in arrears. In no event shall the total additional civil penalty exceed the maximum set forth in the table of civil penalties or schedules E, F and G of civil penalties for equipment requiring operating certificates, or as modified pursuant to paragraph six of subdivision (b) of this section.

(v) Remit in whole or in part, such civil penalty at the conclusion of the hearing, or at a date on which a stipulation is executed by the parties in proceedings pursuant to section 24-183 of this chapter, if the respondent was in violation of this code through the action or inaction of an agency of the city of New York and not through the action or inaction of the respondent.

(6) Order any person to be classified as a persistent violator if such

person is found to be in violation of this code and has also on one or more prior occasions within the preceding five years been found to be in violation of this code, where such repeated violations evidence substantial disregard thereof. If a person is classified as a persistent violator, the board shall in each instance double the amount of the penalty which it would otherwise impose pursuant to paragraph five of this subdivision. Such double penalties shall be imposed for violations which the board finds a person committed pursuant to the same proceeding at which it classified such person as a persistent violator and for all violations committed within the two years immediately following such classification, after which such classification shall terminate. However, if at the end of such two year period such person is still in violation of this code because of a failure to take or complete a corrective action as required by the board, such classification shall continue until such time as such person is no longer in violation of this code because of such failure, at which time such classification shall cease. Thereafter, the board may again classify such person as a persistent violator, on the same basis it used originally.

(7) Impose a civil penalty of not more than two hundred fifty dollars on any owner of equipment for each day such equipment is sealed pursuant to this section;

(8) Impose a civil penalty of not less than one thousand nor more than four thousand dollars on any person who willfully breaks, or causes or permits the breaking of, a seal placed on equipment pursuant to this section.

(9) Order any person or the commissioner to install any apparatus or to clean, repair or alter any equipment or apparatus which causes, or is maintained or operated so as to cause, a violation of this code.

(c)] (3) (i) Impose a civil penalty in each instance in an amount as hereinafter set forth in the table of civil penalties against any person who violates any provision of this code or of any order, rule or regulation promulgated thereunder.

TABLE OF CIVIL PENALTIES

Violation	Minimum	Maximum
24-108	\$200	\$800
24-109(a)(1)-(2)	800	3200
24-109(a)(3)-(16)	400	1600
24-109(f)	400	1600
24-109(g)	400	1600
24-111	400	1600
24-112	400	1600
24-113	200	800
24-118	1600	6400
24-120	800	3200
24-122	800	3200
24-123(d)	800	3200
24-131	200	800
24-136	1000	15000
24-138	1000	15000
24-139	1600	6400
24-141	400	1600
24-142	400	1600
24-143	200	800
24-143.1	200	800
24-145	800	3200
24-146(b)-(d)	400	1600
24-146(e), (f)	800	3200
24-147	800	3200
24-148	800	3200
24-149	200	800
24-149.1	400	1600
24-149.2	400	1600
24-149.3	400	1600
24-149.4	800	3200
24-149.5	400	1600
24-151	800	3200
24-152	200	800
24-153	800	3200
24-155	400	1600
24-156	400	1600
24-159	200	800
24-160	400	1600
24-161	200	800
24-163	200	2000
24-163.3, 24-163.5, 24-163.6, 24-163.7, 24-163.9, 24-163.12	1000	10000 ¹
24-163.8	500	500
24-164	400	1600
24-165	400	1600
24-166	200	800

24-167	200	800	
24-168	800	3200	
24-168.1	800	3200	
24-169	1600	6400	
24-173	1600	6400	
24-176	200	800	
24-177	200	800	
All other sections, subdivisions and paragraphs of this chapter			400
1600			

(ii) Impose a separate penalty for each day on which a violation under this code shall have occurred.

(iii) Impose an additional civil penalty, in the amount of ten per cent (10%) of the penalty originally imposed, for late payment of a penalty for each month or part thereof that the penalty payment is in arrears. In no event shall the total additional civil penalty exceed the maximum set forth in the table of civil penalties.

(4) Impose a civil penalty of not less than one thousand nor more than four thousand dollars on any person who willfully breaks, or causes or permits the breaking of, a seal placed on equipment pursuant to this section.

(b) The board may, upon notice pursuant to section 24-180 of this code, order any person to:

(1) Cease and desist from the installation or alteration of equipment or apparatus, without a permit as required by section 24-120 of this code;

(2) Cease and desist from the operation of any equipment or apparatus without a certificate and the board may also order the commissioner to seal any such equipment or apparatus;

(3) Cease and desist from the spraying of insulating material on, or the demolition of, any building or structure which does not conform to the requirements of section 24-109 or 24-146 of this code or any rule promulgated thereunder. The board may also order the commissioner to seal any equipment used therefor.

(d) (c) The board may order the commissioner to install any apparatus or to clean, repair, or alter any equipment or apparatus which causes or is maintained or operated so as to cause a violation of an order issued pursuant to paragraph two of subdivision [(b)] (a) of this section, where such installation, cleaning, repairing, or alteration can reasonably be expected to correct such a violation. Any work required under such an order may be executed by the commissioner through the officers, agents or contractors of the department. The department shall be reimbursed promptly for all costs and expenses of such work by the owner of the equipment or apparatus to which the order relates and in respect to which such expenses were incurred. Such expenses may be recovered in a civil action brought in the name of the commissioner.

(e) (d) If an order of the board issued pursuant to subdivisions (a) and (b) [and (c)] of this section provides for a period of time during which a person subject to the order is permitted to correct a violation, the board may require the respondent to post a performance bond or other security with the department in a form and amount sufficient to assure the correction of such violation within the prescribed time. In the event of a failure to meet the schedule prescribed by the board, the sum named in the bond or other security shall be forfeited and shall be paid to the commissioner.

(f) (e) The board may order any person to cease and desist from an activity which it reasonably believes causes an emission of an air contaminant which creates an imminent peril to the public health. Such order shall be effective upon service thereof. Any party affected by such an order may request a hearing on written notice, and he or she shall be afforded a hearing, within twenty-four hours after service of such request, pursuant to [section 24-184 of this code] the rules of the board. If such an accelerated hearing is not requested, then a hearing shall be afforded within ten days of the issuance of the order. The board shall issue its final decision and order thereon within three days from the conclusion of a hearing held pursuant to this [subsection] subdivision.

§ 40. Section 24-179 of the administrative code of the city of New York is REPEALED.

§ 41. Section 24-180 of the administrative code of the city of New York is amended to read as follows:

§ 24-180 Notice of violation. (a) Notice, required by this subchapter, shall be given by issuance of a notice of violation.

(b) Whenever the commissioner has reasonable cause to believe that a violation of any provision of this code or any order or [regulation] rule promulgated thereunder may exist, he or she may cause to have a notice of violation issued and served on:

(1) The person in violation; or

(2) An owner [with an equity interest in] of the equipment in violation; or

(3) If an owner with an equity interest in the equipment in violation cannot be located with due diligence, any other owner of said equipment].

(c) A notice of violation shall:

(1) Specify the section or sections of this code, order, or regulation that such person or equipment is in violation of; and

(2) Indicate the amount of the civil penalty that such person is subject to; and

(3) Contain a brief statement of the nature of the violation; and

(4) Require a written response that conforms to section 24-181 of

this code; and

(5) Require such person or owner of equipment to answer the allegations in the notice of violation at a designated time and place, unless a hearing is not required by section 24-178 of this code] include the information specified in the rules of the board.

§ 42. Sections 24-181 and 24-182 of the administrative code of the city of New York are REPEALED.

§ 43. Section 24-183 of the administrative code of the city of New York is amended to read as follows:

§ 24-183 [Settlement of proceedings. The board may settle any proceeding by stipulation and may exercise any or all of its powers under section 24-178 of this code thereby, at any time prior to the issuance of a decision pursuant to section 24-186 of this code] Adjudication, settlement and settlement by stipulation. The adjudication, settlement or settlement by stipulation of any notice of violation issued pursuant to this subchapter shall be in accordance with section 1049-a of the New York city charter and the applicable rules of the board.

§ 44. Sections 24-184, 24-185, 24-186, 24-187 and 24-188 of the administrative code of the city of New York are REPEALED.

§ 45. Subdivision (f) of section 24-190 of the administrative code of the city of New York is REPEALED.

§ 46. Subdivisions (g) and (h) of section 24-190 of the administrative code of the city of New York are designated subdivisions (f) and (g) respectively.

§ 47. Section 28-106.1.1 of the administrative code of the city of New York, as added by local law number 77 for the year 2009, is amended to read as follows:

§28-106.1.1 Full demolition permit. The commissioner shall not issue a full demolition permit unless the owner of the building provides certification in a form and manner to be provided in the rules of the department of environmental protection that (i) the building is free of asbestos containing material, or (ii) the commissioner of environmental protection, has issued a variance from this requirement in accordance with subdivision [(o)] (m) of section [24-146.1] 24-136 of the administrative code and the rules of the department of environmental protection, subject to the requirement that demolition work will be performed only in parts of the building that are certified free of asbestos containing material. The full demolition permit shall be subject to such additional conditions as the department of buildings may require of the permittee based on the size and complexity of the demolition job.

Exception: This section 28-106.1.1 shall not apply to full demolition performed as emergency work pursuant to article 215 of chapter 2 of this title where the emergency warrants immediate commencement of the work or full demolition with asbestos in place authorized pursuant to 12 NYCRR 56-11.5.

§ 48. Section 28-106.1.2 of the administrative code of the city of New York, as added by local law number 77 for the year 2009, is amended to read as follows:

§ 28-106.1.2 Alteration permit for the removal of one or more stories. The commissioner shall not issue an alteration permit for the removal of one or more stories of a building unless the owner of the building provides certification in a form and manner to be provided in the rules of the department of environmental protection that (i) the stories to be removed are free of asbestos containing material and that no abatement activities will be performed anywhere in the building concurrently with the removal work authorized by such permit or (ii) the commissioner of environmental protection has issued a variance from these requirements in accordance with subdivision [(o)] (m) of section [24-146.1] 24-136 of the administrative code and the rules of the department of environmental protection, subject to the requirement that work authorized by the alteration permit will be performed only in parts of the building that are certified free of asbestos containing material. The alteration permit shall be subject to such additional conditions as the department of buildings may require of the permittee based on the size and complexity of the work.

Exception: This section 28-106.1.2 shall not apply to removal of one or more stories performed as emergency work pursuant to article 215 of chapter 2 of this title where the emergency warrants immediate commencement of the work.

§ 49. Section 28-106.3 of the administrative code of the city of New York, as added by local law number 37 for the year 2009, is amended to read as follows:

§ 28-106.3 Permit exemption. Except as otherwise provided by rule, work performed in the course of and only for the purpose of an asbestos project that is required to be permitted pursuant to section [24-146.3] 24-138 of the administrative code shall be exempt from the permit requirements of this code.

§ 50. Section 28-106.4 of the administrative code of the city of New York, as added by local law number 37 for the year 2009, is amended to read as follows:

§ 28-106.4 Definitions. For the purposes of this article, the terms "asbestos" and "asbestos project" shall have the meanings as are ascribed in section [24-146.1] 24-136 of the administrative code.

§ 51. Section 2111.1 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:

2111.1[Definition] General. A masonry fireplace is a fireplace constructed of concrete or masonry. Masonry fireplaces shall be constructed in accordance with this section, Table 2111.1 and Figure 2111.1. All masonry fireplaces shall be installed, altered and maintained in buildings in conformity with the applicable provisions of the New York City Air Pollution Control Code and no new masonry fireplaces shall be permitted except those that burn the types of fuel allowed by section 24-149.2 of such code.

§ 52. Section 3303.5.4 of the New York city building code, as added by local law number 33 for the year 2007, is amended to read as follows:
3303.5.4

Referred to the Committee on Environmental Protection.

Int. No. 1161

By Council Members Foster, Barron, Cabrera, Dickens, James, King, Reyna, Richards, Wills and Rodriguez.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the Department of Homeless Services to evenly distribute shelters among community districts.

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-316 to read as follows:

§21-316. a. *Definitions. For the purposes of this section the following terms shall have the following meanings:*

1. *“Community district” shall mean a historic, geographic and identifiable community as defined by section 2701 of the charter of the city of New York.*

2. *“Shelter” shall mean temporary emergency housing provided to homeless adults, adult families, and families with children by the department or a provider under contract or similar agreement with the department.*

b. *Beginning no later than January 1, 2014, the department shall determine the number of shelters in each community district within the city of New York and shall not site new shelters in community districts with the highest number of shelters until each community district within the city of New York has an equal number of shelters. Once each community district has an equal number of shelters, the department shall site new shelters in rotation by borough, alternating between each of the five boroughs while maintaining an equal number of shelters in each community district.*

§2. This local law shall take effect immediately.

Referred to the Committee on General Welfare.

Int. No. 1162

By Council Members James, Brewer, Chin, Fidler, Gentile, Koo and Rodriguez (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to commercial organic waste.

Be it enacted by the Council as follows:

Section 1. Title 16 of the administrative code of the city of New York is amended by adding a new section 16-306.1 to read as follows:

§ 16-306.1 *Organic waste. a. When used in this section or section 16-324 of this title:*

“Arena” means an establishment or facility that hosts live sporting or entertainment events.

“Catering establishment” shall have the same meaning as set forth in section 20-359 of this code.

“Covered establishment” means:

1. *any location at which a food manufacturer has a floor area space of at least twenty-five thousand square feet;*

2. *any location at which a food wholesaler has a floor area space of at least twenty thousand square feet;*

3. *any location at which a retail food store has a floor area space of at least ten thousand square feet;*

4. *arenas or stadiums having a seating capacity of at least fifteen thousand persons;*

5. *any food service establishment that is part of a chain of at least two food service establishments operating under a common name or common ownership in the city that has a combined floor area space of at least eight thousand square feet, or any location at which a food service establishment has a floor area space of at least seven thousand square feet, and that is required to provide for the removal of waste pursuant to section 16-116 of this code;*

6. *any location at which a food preparation establishment has a floor area space of at least six thousand square feet;*

7. *catering establishments that are required to provide for the removal of waste pursuant to section 16-116 of this code whenever the anticipated attendance for any particular event is greater than one hundred persons; and,*

8. *food service establishments in hotels having at least one hundred sleeping rooms.*

“Food manufacturer” means any establishment that processes or fabricates food products from raw materials for commercial purposes, provided that

it shall not include any establishment engaged solely in the warehousing, distribution or retail sale of product.

“Food preparation establishment” means a business that is primarily engaged in providing food or food services at the locations of others based on contractual arrangements for a specified period of time.

“Food service establishment” means any premises or part of a premises where food is provided directly to the consumer whether such food is provided free of charge or sold, and whether consumption occurs on or off the premises. Food service establishment shall include, but not be limited to, full-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, and business, institutional or government agency cafeterias, but shall exclude retail food stores and mobile food vending units, as such term is defined in section 89.03 of the health code.

“Food wholesaler” means any establishment primarily engaged in the wholesale distribution of groceries and related products, packaged frozen food, dairy products, poultry products, confectioneries, fish and seafood, meat products, and fresh fruits and vegetables.

“Hotel” shall have the same meaning as set forth in section 27-2004 of the housing maintenance code.

“In vessel composting” means a process in which organic waste is enclosed in a drum, silo, bin, tunnel, reactor, or other container for the purpose of producing compost, maintained under uniform conditions of temperature and moisture where air-borne emissions are controlled.

“Organic waste” shall have the same meaning as set forth in section 16-303 of this title.

“Private carter” shall mean a business licensed by the business integrity commission pursuant to title 16-A of this code.

“Retail food store” means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premises consumption, but shall exclude establishments that handle only pre-packaged, non-potentially hazardous foods, roadside markets that offer only fresh fruits and fresh vegetables for sale, food service establishments, or food and beverage vending machines.

“Sponsor” means the applicant for a street activity permit for a temporary public event pursuant to chapter 1 of title 50 of the rules of the city of New York.

“Stadium” means an establishment or facility that hosts live sporting or entertainment events.

“Temporary public event” means any activity on a public street, street curb lane, sidewalk or pedestrian island or plaza with an anticipated attendance of greater than five hundred persons per day, which requires a permit to be issued by the community assistance unit in the office of the mayor or any successor entity and where the activity will interfere with or obstruct the regular use of the location by pedestrian or vehicular traffic, but shall exclude activities conducted pursuant to a valid film permit, demonstrations, parades or block parties.

b. 1. *On and after July first, two thousand fifteen, every sponsor of a temporary public event and every covered establishment shall:*

i. *either (A) enter into a contract consistent with subchapter E of chapter 1 of title 17 of the rules of the city of New York, with a private carter, pursuant to which such private carter is required to collect all organic waste generated by such establishment for purposes of composting, anaerobic digestion, or any other method of processing organic waste that the department approves by rule; or (B) transport its own organic waste to a facility that provides for composting, anaerobic digestion, or any other method of processing organic waste that the department approves by rule, provided that the sponsor of a temporary public event or covered establishment first obtains a registration issued by the business integrity commission pursuant to subdivision b of section 16-505 of this code; or (C) provide for on-site in vessel composting, anaerobic digestion, or any other method of processing organic waste that the department approves by rule for all of the organic waste it generates on its premises for reuse on site. Notwithstanding clause (C) of this subparagraph, a sponsor of a temporary public event or a covered establishment may provide for on-site in vessel composting, anaerobic digestion, or any other method of processing organic waste that the department approves by rule, for a portion of the organic waste that it generates on its premises for reuse on site, provided that it arranges for the collection or transport of the remainder of such organic waste in accordance with clause (A) or (B) of this subparagraph.*

ii. *post a sign, which shall be in addition to any other sign required to be posted pursuant to this code, that states clearly and legibly (A) the trade or business name, address, and telephone number of, and the day and time of pickup by, the private carter that collects the covered establishment’s organic waste; (B) that such covered establishment transports its own organic waste; or (C) that such covered establishment provides for on-site processing for all of the organic waste it generates on its premises for reuse on site. Such sign shall be prominently displayed by affixing it to a window near the principal entrance to the covered establishment so as to be easily visible from outside the building. If this is not possible, such sign shall be prominently displayed inside the covered establishment near the principal entrance. Notwithstanding the foregoing, catering establishments shall not be required to display on such sign the day and time of the pickup by the private carter that collects the establishment’s organic waste. This subparagraph shall not apply to sponsors of temporary public events;*

iii. *provide separate bins for the disposal of organic waste in any area where such organic waste is generated and disposed of; and*

iv. *post instructions on the proper separation of organic waste where such instructions will be visible to persons who are disposing of organic waste. This subparagraph shall not apply to sponsors of temporary public events.*

2. *Any sponsor of a temporary public event or any covered establishment*

that arranges for the collection by a private carter of its organic waste pursuant to this subdivision shall not commingle such organic waste with other designated and non-designated recyclable material or solid waste and shall place such organic waste out for collection by a private carter in a container that (i) has a lid and a latch that keeps the lid closed; (ii) has a capacity of at least thirty-five gallons; (iii) conforms to the private carter's hauling collection practices; and (iv) is closed and latched at the time it is placed out for collection.

3. Any private carter that has entered into a written agreement with a sponsor of a temporary public event or any covered establishment pursuant to this subdivision shall either:

i. deliver the collected organic waste to a transfer station that has represented that it will deliver such organic waste to a facility for purposes of composting, anaerobic digestion, or any other method of processing organic waste that the department approves by rule; or

ii. deliver such organic waste directly to a facility for purposes of composting, anaerobic digestion, or any other method of processing organic waste that the department approves by rule.

c. The commissioner, by written order, shall have the power to delay the initial implementation of this section for periods of up to twelve months, not to exceed a total of three years, if he or she determines that there are an insufficient number of facilities within a one hundred twenty-five mile radius of the city to process the quantity of organic waste that will be collected or transported pursuant to this section.

d. Any transfer station that receives separated organic waste pursuant to this section shall deliver such organic waste directly to a facility that accepts organic waste for purposes of composting, anaerobic digestion, or any other method of processing organic waste that the department approves by rule. This subdivision shall not apply to waste that cannot be processed at an organic waste processing facility.

e. The provisions of this section relating to private carters shall be enforced by the business integrity commission and any other agency designated by the mayor. The provisions of this section relating to sponsors of temporary public events or covered establishments shall be enforced by the department, the department of health and mental hygiene, and any other agency designated by the mayor.

f. The department, the business integrity commission, the department of health and mental hygiene, and any other agency designated by the mayor to enforce this section may promulgate any rules necessary to implement this section.

§ 2. The opening paragraph of subdivision a of section 16-324 of the administrative code of the city of New York, as amended by local law number 34 for the year 2010, is amended to read as follows:

a. Subject to the provisions of subdivision b of this section, any person who violates this chapter, except section 16-306.1 of this chapter, subdivision f of section 16-308 of this chapter or section 16-310.1 of this chapter, or any rule promulgated pursuant thereto, shall be liable for a civil penalty recoverable in a civil action brought in the name of the commissioner or in a proceeding returnable before the environmental control board, as follows:

§ 3. Section 16-324 of the administrative code of the city of New York is amended by adding a new subdivision e to read as follows:

e. (1) Any sponsor of a temporary public event, covered establishment, or transfer station that violates section 16-306.1 of this chapter or rules of the department or the department of health and mental hygiene promulgated pursuant thereto shall be liable for a civil penalty recoverable in a civil action brought in the name of the commissioner or the commissioner of the department of health and mental hygiene, or in a proceeding returnable before the environmental control board or the health tribunal at the office of administrative trials and hearings, in the amount of two hundred fifty dollars for the first violation, five hundred dollars for the second violation committed on a different day within a period of twelve months, and one thousand dollars for the third and each subsequent violation committed on a different day within a period of twelve months.

(2) Any private carter that violates section 16-306.1 of this chapter or rules of the business integrity commission promulgated pursuant thereto shall be liable for a civil penalty recoverable in a civil action brought in the name of the chair of the business integrity commission, or in a proceeding brought by the chair of the business integrity commission held in accordance with title 16-A of this code.

§ 4. This local law shall take effect immediately, except that subdivision e of section 16-324 of the administrative code of the city of New York, as added by section three of this local law, shall take effect six months after the implementation of section 16-306.1 of the administrative code of the city of New York, as added by section one of this local law.

Referred to the Committee on Sanitation and Solid Waste Management.

Int. No. 1163

By Council Members Lappin, Brewer, Chin, Eugene, Gentile, Jackson, James, Koo, Lander, Mendez, Palma, Richards, Wills, Rodriguez and Ulrich.

A Local Law to amend the New York city charter, in relation to requiring the department of information technology and telecommunications to create and maintain an interactive website detailing traffic crash data.

Be it enacted by the Council as follows:

Section 1. Subdivision r of Section 1072 of the New York city charter is amended to read as follows:

r. to provide to the public, at no charge on the city's website, an interactive crime and traffic crash map that, for each segment of a street bounded by one or more intersections and/or a terminus, shall visually display the aggregate monthly, yearly and year-to-date totals for the current and the most recent prior calendar years for each class of crime that is reported to the New York city police department, or for which an arrest was made, including crimes that occurred in parks and subway stations, and for each such segment of a street, the aggregate monthly, yearly and year-to-date totals of traffic crashes and the number of fatalities that resulted from all such traffic crashes. Such map shall be searchable by address, zip code, and patrol precinct. All information required by this subdivision shall be available on the city's website as soon as practicable but in no case more than one month after a crime complaint has been filed or a traffic crash has occurred. The mayor shall ensure that all agencies provide the department with such assistance and information as the department requires to compile and update the interactive crime and traffic crash map.

§ 2. This local law shall take effect one hundred eighty days after its enactment.

Referred to the Committee on Transportation.

Preconsidered Res. No. 1937

Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.

By Council Members Recchia and Koo.

Whereas, On June 27, 2013 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2014 with various programs and initiatives (the "Fiscal 2014 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2014 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 new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2014 Expense Budget by approving new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding; and

Whereas, On June 28, 2012 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2013 with various programs and initiatives (the "Fiscal 2013 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 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 new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 Expense Budget by approving new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding; and

Whereas, On June 29, 2010 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2011 with various programs and initiatives (the "Fiscal 2011 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2013 Expense Budget by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and therefore be it

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 1; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of a certain organization receiving aging discretionary funding in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 2; 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 in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 3; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the OST Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 4; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to the Sexual Assault Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 5; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of a certain organization receiving funding pursuant to HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 6; 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 Discretionary Child Care Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 7; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Cultural After School Adventure Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 8; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Immigrant Opportunities Initiative in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 9; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 10; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Food Pantries Initiative in accordance with the Fiscal 2011 Expense Budget, as set forth in Chart 11 and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 12; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Anti-Gun Violence Initiative in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 13; and be it further

Resolved, That the City Council approves the new Description/Scope of Services for certain organizations receiving local, aging, youth, and initiative discretionary funding in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 14; and be it further

Resolved, That the City Council approves the new Description/Scope of Services for certain organizations receiving local, aging, youth, and initiative discretionary funding in accordance with the Fiscal 2013 Expense Budget, as set forth in Chart 15.

Adopted by the Council (preconsidered and approved by the Committee on Finance; for Exhibits, please see the attachment to the resolution following the Report of the Committee on Finance for Res No. 1937 printed in these Minutes).

Int. No. 1164

By Council Members Vacca, Barron, James, Koo, Koppell, Koslowitz, Mendez, Wills and Rodriguez.

A Local Law to amend the administrative code of the city of New York, in relation to reporting data about commercial bicycles.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 14-153 of the administrative code of the city of New York, is amended to read as follows:

a. The department shall publish on its website the following traffic-related data: (1) the number of moving violation summonses issued, disaggregated by type of summons (2) the number of traffic crashes, disaggregated by (i) the type of vehicle or vehicles involved and (ii) the number of motorists and/or injured passengers, bicyclists and pedestrians involved; and (3) the number of traffic-related fatalities and injuries disaggregated by (i) the number of motorists and/or injured passengers, bicyclists and pedestrians involved; and (ii) the apparent human contributing factor or factors involved in the crash, including, but not limited to alcohol, driver inattention/distraction, speeding, failure to yield and use of cell phones or other mobile devices. *Such data shall be further disaggregated by the number of bicycles*

being used for commercial purposes. For purposes of this section, bicycle used for commercial purposes shall mean a bicycle operated by a person, firm, partnership, joint venture, association, corporation, or other entity which engages in the course of its business, either on behalf of itself or others, in delivering packages, parcels, papers or articles of any type by bicycle. Nothing contained in this section shall be construed as applying to persons under the age of sixteen who use a bicycle only to deliver daily newspapers or circulars.

§2. Section 19-186 of the administrative code of the city of New York is amended to add a new subdivision c to read as follows:

c. *The compilation of bicycle crash data required by subdivision a of this section shall also include data about bicycles disaggregated by bicycles being used for commercial purposes. The report required by subdivision b of this section shall also be disaggregated by the number of bicycles being used for commercial purposes. For purposes of this section, bicycle used for commercial purposes shall mean a bicycle operated by a person, firm, partnership, joint venture, association, corporation, or other entity which engages in the course of its business, either on behalf of itself or others, in delivering packages, parcels, papers or articles of any type by bicycle. Nothing contained in this section shall be construed as applying to persons under the age of sixteen who use a bicycle only to deliver daily newspapers or circulars.*

§3. This local law shall take effect one hundred twenty days after it is enacted into law.

Referred to the Committee on Transportation.

Int. No. 1165

By Council Members Vacca, Barron, Fidler, Koo, Koslowitz, Lander, Mendez, Wills and Rodriguez.

A Local Law to amend the administrative code of the city of New York, in relation to reporting of summonses issued for driver inattention/distraction.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 14-153 of the administrative code of the city of New York, is amended to read as follows:

a. The department shall publish on its website the following traffic-related data: (1) the number of moving violation summonses issued, disaggregated by type of summons, *including, but not limited to, summonses issued for violations resulting from driver inattention/distraction*; (2) the number of traffic crashes, disaggregated by (i) the type of vehicle or vehicles involved and (ii) the number of motorists and/or injured passengers, bicyclists and pedestrians involved; and (3) the number of traffic-related fatalities and injuries disaggregated by (i) the number of motorists and/or injured passengers, bicyclists and pedestrians involved; and (ii) the apparent human contributing factor or factors involved in the crash, including, but not limited to alcohol, driver inattention/distraction, speeding, failure to yield and use of cell phones or other mobile devices.

§2. This local law shall take effect one hundred twenty days after it is enacted into law.

Referred to the Committee on Transportation.

Preconsidered L.U. No. 920

By Council Member Recchia:

Mascot Flats, Block 375, Lot 30, Manhattan, Community District No. 3, Council District No. 2

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 921

By Council Member Comrie:

Application No. N 130331(A) ZRY submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter for amendments to the Zoning Resolution, pertaining to enabling flood resilient construction within flood zones located throughout New York City.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 922

By Council Member Comrie:

Application No. N 120213 NPY submitted by the Department of City Planning pursuant to Section 197-a of the New York City Charter concerning revisions to the New York City Waterfront Revitalization Program's coastal policies and Coastal Zone maps throughout New York City.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 923

By Council Member Comrie:

Application No. N 130316 ZRR submitted by the New York City Economic Development Corporation, New York Wheel LLC and St. George Outlet Development LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution, Article XII, Chapter 8, and related sections, concerning the expansion of the Special St. George District in the Borough of Staten Island, Community District 1, Council District 49.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 924

By Council Member Comrie:

Application No. C 130315 ZMR submitted by the New York City Economic Development Corporation, New York Wheel LLC and St. George Outlet Development LLC, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 21c, to extend the boundaries of the existing Special St. George District in the Borough of Staten Island, Community District 1, Council District 49.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 925

By Council Member Comrie:

Application No. C 130317 ZSR submitted by the New York City Economic Development Corporation and New York Wheel LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 128-61 of the Zoning Resolution to allow a development plan for an Observation Wheel and accessory terminal building, and a public parking garage of approximately 950 spaces and an improvement plan for a Waterfront Esplanade, on property located on Parcel 1 in the North Waterfront Subdistrict and on the Waterfront Esplanade, in an M1-1 District, within the Special St. George District, in the Borough of Staten Island, Community District 1, Council District 49. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 926

By Council Member Comrie:

Application No. C 130318 ZSR submitted by the New York City Economic Development Corporation and St. George Outlet Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 128-61 of the Zoning Resolution to allow a development plan for a retail outlet mall, catering facility, hotel and a public parking garage with a maximum of 1,250 spaces, and an improvement plan for a Waterfront Esplanade, on property located on Parcel 2 in the North Waterfront Subdistrict and on the Waterfront Esplanade, in an M1-1 District, within the Special St. George District in the Borough of Staten Island, Community District 1, Council District 49. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 927

By Council Member Comrie:

Application No. C 130319 PPR submitted by the NYC Department of Small Business Services, pursuant to Section 197-c of the New York City Charter, for the disposition of one city-owned property located on Block 2, part of Lot 20, restricted to the development authorized by the special permit granted under Zoning Resolution Section 128-61, located in the North Waterfront Subdistrict within the Special St. George District, in the Borough of Staten Island, Community District 1, Council District 49. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 928

By Council Member Comrie:

Application No. C 130320 PPR submitted by the NYC Department of Small Business Services, pursuant to Section 197-c of the New York City Charter, for the disposition of four city-owned properties located on Block 2, Lots 1, 5, 10 and 20 restricted to the development authorized by the special permit granted under Zoning Resolution Section 128-61, located in the North Waterfront Subdistrict within the Special St. George District, in the Borough of Staten Island, Community District 1, Council District 49. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises

L.U. No. 929

By Council Member Comrie:

Application No. C 130279 ZMR submitted by the New York City Economic Development Corporation and Bricktown Pass, LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment to the Zoning Map, Section No. 32d, changing from an M1-1 District to a C4-1 and an R3-2 District, property generally bounded by Bricktown Way, Veterans Road West, Arthur Kill Road and Englewood Avenue, to facilitate phased mixed-use development, in the Borough of Staten Island, Community District 3, Council District 51.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 930

By Council Member Comrie:

Application no. C 130229 MMR submitted by the New York City Department of Transportation and the Department of Parks and Recreation pursuant to Sections 197-c and 199 of the New York City Charter for an amendment to the City Map to establish Bricktown Way, Tyrellan Avenue, Englewood Avenue, and Fairview Park and Conservation Area, and extinguish 10 unbuilt record streets, including authorization for related acquisitions and dispositions, in the Borough of Staten Island, Community District 3, Council District 51. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 931

By Council Member Comrie:

Application no. C 130288 PQR submitted by Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the acquisition of property generally bounded by Englewood Avenue, Arthur Kill Road, and Veterans Road West (Block 7375, lot 7) to facilitate the construction of a public school in the Borough of Staten Island, Community District 3, Council District 51. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 932

By Council Member Comrie:

Application no. C 130289 PSR submitted by the New York Public Library and the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the site selection of property generally bounded by Englewood Avenue, Arthur Kill Road, and Veterans Road West (Block 7459, p/o lot 50; Block 7454, p/o lot 5; Block 7452, p/o lot 75; Block 7487, p/o lot 100 and p/o Bayne Avenue record street) for use as a public library, in the Borough of Staten Island, Community District 3, Council District 51. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 933

By Council Member Comrie:

Application no. C 130290 PQR submitted by Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter for the acquisition of an easement for public access over and along the mapped dimensions of Bricktown Way and Tyrellan Avenue, including p/o Block 7446, lot 75; p/o Block 7481, lot 1; and p/o Block 7469, lot 200, in the Borough of Staten Island, Community District 3, Council District 51. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 934

By Council Member Comrie:

Application No. C 130273 ZMX 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. 3c, to facilitate the East Fordham Road rezoning, affecting all or part of a 12-block area in the Belmont neighborhood of the Borough of the Bronx, Community District 6, Council Districts 11 and 15.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 935

By Council Member Comrie:

Application No. N 130274 ZRX submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution, Appendix F, to apply the Inclusionary Housing Program to East Fordham Road between Bathgate Ave and Southern Blvd, in the Borough of the Bronx, Community District 6, Council Districts 11 and 15.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 936

By Council Member Comrie:

Application No. C 130236 HAM submitted by the NYC Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law of New York State for the designation of property located at 335 East 27th Street (Block 933, Lots 10 and p/o 25) as an Urban Development Action Area and Project for such area, and pursuant to Section 197-c of the New York City Charter for the approval of the disposition of such property, to facilitate development of a mixed use building with approximately 55 dwelling units in the Borough of Manhattan, Community District 6, Council District 2.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 937

By Council Member Comrie:

Application No. C 130235 ZMM submitted by the NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8d, establishing within an existing R8 District, a C2-5 District bounded by a line midway between East 28th Street and Pedestrian Way, a line 100 feet westerly of First Avenue, Pedestrian Way, and Mount Carmel Place, in the Borough of Manhattan, Community District 6, Council District 2.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 938

By Council Member Comrie:

Application No. C 130162 POK submitted by the Administration for Children's Services, and the Department of Citywide Administrative Services, pursuant to Section 197-c of the Charter for acquisition of property located at 600 Hart Street, Borough of Brooklyn, Community Board 4, Council District 34. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.

L.U. No. 939

By Council Member Comrie:

Application No. C 130126 POK submitted by the Administration for Children's Services, and the Department of Citywide Administrative Services, pursuant to Section 197-c of the Charter for acquisition of property located at 200 Central Avenue, Borough of Brooklyn, Community Board 4, Council District 34. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Landmarks, Public Siting and Maritime Uses.

L.U. No. 940

By Council Member Comrie:

Application No. C 130375 HUK submitted by the NYC Department of Housing Preservation and Development pursuant to Section 505 of Article 15 of the General Municipal (Urban Renewal) Law of New York State and Section 197-c of the New York City Charter, for the third amendment to the East New York I Urban Renewal Plan for the East New York Urban Renewal Area in the Borough of Brooklyn, Community District 5, Council District 42.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 941

By Council Member Comrie:

Application No. C 130376 HAK submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of Urban Development Action Areas and Projects for properties located along Livonia Avenue between Van Sinderen Avenue and Pennsylvania Avenue (Block 3801, Lots 1, 3, 47, 49; Block 3804, Lot 1; Block 3805, Lots 1 and 6; Block 3819, Lots 121 and 130; and Block 3820, Lot 123) and pursuant to Section 197-c of the New York City Charter for the approval of disposition of such properties, in the Borough of Brooklyn, Community District 5, Council District 42. This matter is subject to Council review and action at the request of HPD and pursuant to Article 16 of the New York General Municipal Law.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 942

By Council Member Comrie:

Application No. C 130374 ZMK submitted by the NYC Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 17d, changing an existing R6, R6/C2-3, and M1-1 district to R6, R7A/C2-4, and C4-4L, in the Borough of Brooklyn, Community District 5, Council District 42.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 943

By Council Member Comrie:

Application No. 20145082 HAX submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of an Urban Development Action Area Project and related tax exemption for properties located at 384 Grand Concourse, 1038 Rogers Place, 1129 Morris Avenue and 1202 Clay Avenue in the Borough of the Bronx, Community Districts 1, 2, and 4, Council Districts 16 and 17. This matter is subject to Council review and action at the request of HPD and pursuant to Article 16 of the New York General Municipal Law

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 944

By Council Member Comrie:

Application no. 20145048 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Rustic Table LLC, d/b/a The Quarter, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 522 Hudson Street, Borough of Manhattan, Community District 2, Council District 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(e) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

At this point the Speaker (Council Member Quinn) made the following announcements:

ANNOUNCEMENTS:

Wednesday, September 25, 2013

Committee on **HIGHER EDUCATION****10:00 A.M.**
Oversight - The College Scorecard: Does It Meet the Mark?"
Committee Room – 250 Broadway, 16th FloorYdanis Rodriguez, Chairperson

★ *Deferred*
Committee on **CONSUMER AFFAIRS**.....**10:00 A.M.**
Agenda to be announced
Hearing Room – 250 Broadway, 16th FloorDaniel Garodnick, Chairperson

Committee on **COMMUNITY DEVELOPMENT**.....**10:00 A.M.**
Int. 1148 - By Council Members Vann, Barron, Comrie, Dickens, James, Koo, Mendez, Reyna, Rose, Wills, Foster and Halloran - A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to designating high needs areas within New York City as “community development zones” and providing socio-economic services to such communities.
Committee Room – 250 Broadway, 14th FloorAlbert Vann, Chairperson

★ *Note Topic and Committee Addition*
Committee on **GOVERNMENTAL OPERATIONS** jointly with the
★Committee on **CONTRACTS**.....**10:00 A.M.**
★Oversight - An Update on FoodWorks
Hearing Room – 250 Broadway, 16th Floor Gale Brewer, Chairperson
..... Darlene Mealy, Chairperson

★ *Addition*
Committee on **LOWER MANHATTAN REDEVELOPMENT** jointly with the
Committee on **WATERFRONTS**..... **1:15 P.M.**
Tour Location: Governors Island
Details Attached..... Margaret Chin, Chairperson
..... Peter Koo, Chairperson

★ *Note Topic Addition*
Committee on **TECHNOLOGY**..... **1:00 P.M.**
Oversight – Mayor’s Office of Media and Entertainment
Committee Room – 250 Broadway, 16th FloorFernando Cabrera, Chairperson

★ *Deferred*
Committee on **PUBLIC HOUSING** **1:00 P.M.**
Oversight – NYCHA's New Board
Committee Room – 250 Broadway, 14th FloorRosie Mendez, Chairperson

★ *Note Topic Addition*
Committee on **CIVIL SERVICE AND LABOR** **1:00 P.M.**
Int. 1106 - By Council Members Palma, Williams, Rose, Mark-Viverito, Foster, Nelson, Rivera, Koslowitz, Mendez, Rodriguez, Koppell, King, Dromm, Van Bramer, Lander, Brewer, Weprin, Arroyo and Halloran - A Local Law to amend the administrative code of the city of New York, in relation to online social media and other personal online accounts and employment.
Hearing Room – 250 Broadway, 16th Floor Michael Nelson, Chairperson

Monday, September 30, 2013

★ Addition

Subcommittee on **ZONING & FRANCHISES**.....**9:30 A.M.**
See Land Use Calendar Available, Wednesday, September 25, 2013
Council Chambers – City Hall Mark Weprin, Chairperson

★ Addition

Committee on **TRANSPORTATION** jointly with the
Committee on **PUBLIC SAFETY****10:00 A.M.**
Oversight - Examining the NYPD's Collision Investigation Reforms
Committee Room – 250 Broadway, 16th FloorJames Vacca, Chairperson
.....Peter Vallone, Chairperson

★ Addition

Committee on **EDUCATION**.....**10:00 A.M.**
Res 1768 - By Council Members Brewer, Jackson, Lander, Arroyo, Barron, Chin, Comrie, Dickens, Dromm, Eugene, Gentile, James, Mark-Viverito, Palma, Rose, Williams and Wills - Resolution calling upon the New York State Legislature to pass and the Governor to sign, A.6059/S. 4284, legislation that would protect student privacy by prohibiting the release of personally identifiable student information without consent.
Committee Room – 250 Broadway, 14th Floor Robert Jackson, Chairperson

★ Addition

Committee on **CULTURAL AFFAIRS, LIBRARIES & INTERNATIONAL INTERGROUP RELATIONS** jointly with the Select Committee on **LIBRARIES**..... **1:00 P.M.**
Oversight - Capital Construction Needs and the Potential Disposal of Libraries in NYC
Committee Room – 250 Broadway, 16th Floor
..... James Van Bramer, Chairperson
..... Vincent Gentile, Chairperson

★ Addition

Committee on **PUBLIC HOUSING** **1:00 P.M.**
Oversight – NYCHA's New Board
Committee Room – 250 Broadway, 14th Floor Rosie Mendez, Chairperson

Wednesday, October 2, 2013

Subcommittee on **ZONING & FRANCHISES**.....**9:30 A.M.**
See Land Use Calendar Available Thursday, September 26, 2013
Council Chambers – City Hall Mark Weprin, Chairperson

Subcommittee on **LANDMARKS, PUBLIC SITING & MARITIME USES**.....**11:00 A.M.**
See Land Use Calendar Available Thursday, September 26, 2013
Committee Room – City Hall..... Brad Lander, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS & CONCESSIONS**..... **1:00 P.M.**
See Land Use Calendar Available Thursday, September 26, 2013
Committee Room – City Hall..... Stephen Levin, Chairperson

Committee on **EDUCATION**..... **1:00 P.M.**
Res. 1263 - By Council Members Vann, Jackson, Arroyo, Brewer, Cabrera, Chin, Dickens, Dromm, Fidler, Gentile, James, Lander, Levin, Palma, Reyna, Rose, Williams and Rodriguez - Resolution calling upon the New York State Legislature to amend the State Education Law, in relation to mayoral control of the New York City public school system, by requiring that the respective Community Education Council approve a co-location or school closure/phase-out proposal before it may be presented for a vote by the Panel for Educational Policy.
Proposed Res. 1395-A - By Council Members Jackson, Rose, Cabrera, Comrie, Dickens, Dromm, Fidler, Gonzalez, James, Lander, Mendez, Vann, Williams, Wills, Mark-Viverito and Reyna - Resolution calling upon the New York City Department of Education to institute a moratorium on school closings and forced “co-locations” in existing schools for a period of at least one year, effective July 1, 2013, in order to study the impact of these policies on all New York City communities, and in

particular whether such policies are having a disparate impact on low-income communities, communities of color, disabled students and homeless students.

Res. 1906 - By Council Members Wills, Barron, Dickens, Eugene, James, Mendez, Richards and Rose - Resolution calling upon the New York City Department of Education to amend Chancellor’s Regulation A-190, in order to specify procedures for notifying affected parents of any proposed school closure or significant change in school utilization.

Oversight - DOE’s Significant School Changes: Closures, Reconfigurations and Community Notification

Committee Room – 250 Broadway, 16th Floor Robert Jackson, Chairperson

Thursday, October 3, 2013

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 – 250 Broadway, 16th Floor Leroy Comrie, Chairperson

Committee on **PARKS AND RECREATION**..... **1:00 P.M.**
Int. 1101 - By Council Members Wills, Chin, Comrie, Dickens, Eugene, James, Koppell, Lander, Mealy, Mendez, Nelson, Palma, Williams, Rodriguez and Halloran - A Local Law in relation to renaming one thoroughfare in the Borough of Queens, Tuskegee Airmen Way, and to amend the official map of the city of New York accordingly.
Oversight - The Private Use of Public Parkland: Do Large Scale Events Benefit Parks?
Committee Room – 250 Broadway, 14th Floor
.....Melissa Mark-Viverito, Chairperson

Wednesday, October 9, 2013

Stated Council Meeting.....*Ceremonial Tributes – 1:00 p.m.*
.....*Agenda – 1:30 p.m.*
Location..... ~ *Council Chambers ~ City Hall*

Whereupon on motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Comrie) adjourned these proceedings to meet again for the Stated Meeting on Wednesday, October 9, 2013.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor’s Note: These proceedings mark the last Stated Meeting for Council Member Helen Diane Foster who submitted her resignation as Council Member shortly after her nomination by the Governor to be the commissioner of the New York State Human Rights Division.

