

SUPPLEMENT TO

THE CITY RECORD

THE COUNCIL —STATED MEETING OF
THURSDAY, DECEMBER 19, 2013

THE COUNCIL

*Minutes of the Proceedings for the
STATED MEETING
of*

Thursday, December 19, 2013, 2:47 p.m.

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

Council Members

Christine C. Quinn, Speaker

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

The Majority Leader (Council Member Rivera) 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 Rivera).

There were 51 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. Joseph Tolton, Rivers at Rehoboth Church, 263 West 86th Street New York, NY 10024.

The peace of God be with you today.
God of grace and God of mercy

We recognize, acknowledge,
and embrace your majesty.
God who is sovereign
we solute your diverse manifestations
and celebrate each of your majestic names.
Throughout this year these public servants
have made a deep and wide investment
of their total being in developing policies
that would strengthen the lives of New Yorkers.
And on this day I pray God
that you reward each of them personally.
In 2013[,] these public servants have fought
for better more productive public schools
that our children may be educated
and prepared to thrive in our global village
driven by innovation.
God I pray that in return
you will impart onto each of them
a new creative and inspired idea
as they prepare for what
their individual next chapter will be.
These public servants have fought
for better wages for labor,
opportunities for the middle class,
and prosperity in our small
and corporate business communities.
In return I pray God that there would be
no lack in their lives.
May their cupboards be filled
and may they be blessed
with abundance for their service.
This year these public servants have fought
for fair policing practices
that uphold the civil rights of every New Yorker.
I pray God that in return
you bless them with divine protection.
These public servants this year
have maintained diligence in the need
for gay, lesbian, bisexual, and transgender New Yorkers
to be safe as we live our truth without shame.
In return I pray God that in the marriages,
unions, relationships, and covenants
of these public servants
that there might be
joy, peace, stability, and fulfillment.
Every individual within this body of organizers
has said yes to the awesome call
and challenge of public service.
For their courage and commitment I pray God
that you promote each one of them
and take them to the next level
in every dimension of their lives.
This I pray in the name of all that is good.
Amen.

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

At this point, the Speaker (Council Member Quinn) yielded the floor to Council Member Mendez who spoke in respectful memory of her friend, Angeline Theresa (“Terry”) DiFiore. Council Member Mendez noted that Ms. DiFiore broke glass ceilings by working in jobs were once seen as non-traditional for women such as HPD code inspector and construction site safety consultant. A week before this Stated Meeting, Ms. DiFiore lost her life to a rare progressive brain disorder called Progressive Supranuclear Palsy (PSP). She leaves behind her wife Sandra Abramson. At this point, the Speaker (Council Member Quinn) asked for a Moment of Silence in memory of Ms. Angeline Theresa (“Terry”) DiFiore.

* * *

ADOPTION OF MINUTES

Council Member Weprin moved that the Minutes of the Stated Meeting of November 26, 2013 be adopted as printed.

During the Communication from the Speaker segment of the Meeting, the Speaker (Council Member Quinn) recognized several Council family members in the Chambers: Council Member Nelson’s daughter and wife; and Council Member Gennaro’s wife Joann and daughter Christina.

Also at this point, the Speaker (Council Member Quinn) spoke briefly with praise and warmth of the following Members who were leaving the Council: Council Members Lappin, Brewer, Jackson, Koppell, Rivera, Halloran, Vallone, Jr., Gennaro, Comrie, Reyna, James, Vann, Dilan, Gonzalez, Barron, Fidler, Nelson, Recchia and Oddo. Later during this segment of the Meeting, the Speaker (Council Quinn) noted that this was her last Council Meeting and she thanked her staff for making this City a better place to live in. The Speaker (Council Member Quinn) bid everyone goodbye, good luck, and asked God to bless all.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Civil Service and Labor

Report for Int. No. 1208-A

Report of the Committee on Civil Service and Labor 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 the provision of sick time earned by employees.

The Committee on Civil Service and Labor, to which the annexed amended proposed local law was referred on December 10, 2013 (Minutes, page 5219), respectfully

REPORTS:

I. Introduction

On December 17, 2013, the Committee on Civil Service and Labor, chaired by Council Member Michael Nelson, will conduct a second hearing on Proposed Int. No. 1208-A a Local Law to amend the Administrative Code of the City of New York in relation to the provision of sick time earned by employees. The bill was amended after introduction. This bill makes technical amendments to Local Law 46 of 2013, the Earned Sick Time Act, which was passed by the Council on May 8, 2013, vetoed by Mayor Michael Bloomberg on June 6, 2013 and overridden by the Council on June 26, 2013. A hearing on this bill was held on December 12, 2013.

II. Proposed Int. No. 1208-A

Bill Text

Manufacturing Exception

The first two sections of the bill would amend subdivision g of section 20-912 and subdivision a of section 20-913 of Chapter 8 to Title 20 of the Administrative Code of the City of New York (the Code). The Earned Sick Time Act currently contains an exemption for manufacturers, which took manufacturers completely out from the definition of employer. This bill, however, would move the exemption for manufacturers to the requirement to provide paid sick time. Manufacturers would, therefore, still be required to provide *unpaid* sick time to their employees.

Carryover Hours

The bill’s third section would amend subdivision h of section 20-913 of chapter 8 of title 20 of the Code. This change was necessary to avoid employees from being able to carryover more hours into the following year than they are entitled to use in the following year.

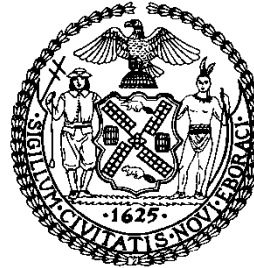
Notice and Posting

The third section of this legislation would amend subdivision a of section 20-919 of the Code. This change would require that, in addition to informing future employees about the provisions of the Earned Sick Time Act, employers would also have to inform current employees of such sick time requirements when the law goes into effect.

Enactment

The final section of the bill contains the enactment clause, which specifies that this local law would take effect on the same date and in the same manner as Local Law 46 for the Year 2013 (the Earned Sick Time Act).

(The following is the text of the Fiscal Impact Statement for Int. No. 1208-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: 1208-A
COMMITTEE:
Civil Service and
Labor**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the provision of sick time earned by employees. **SPONSOR(S):** Brewer, Chin, Koppell, Mendez, Rose and Gennaro

SUMMARY OF LEGISLATION: Proposed Intro. 1208-A would amend the New York City Charter through technical amendments to Local Law 46 of 2013, the Earned Sick Time Act, which was passed by the Council on May 8, 2013, vetoed by Mayor Michael Bloomberg on June 6, 2013 and overridden by the Council on June 26, 2013.

The Act carved out manufacturing businesses completely from the bill. This bill requires manufacturing businesses that do not have to provide paid sick time under the law to provide unpaid sick time.

The Act currently allows workers to accrue and carryover more hours into the subsequent year than can be used in that year. This bill caps the carryover at 40 hours.

The Act requires future employees to be informed of their rights under the Earned Sick Time Act. This bill requires employers to also inform current employees of their rights under the law.

EFFECTIVE DATE: This local law would take effect on the same date and in the same manner as Local Law 46 for the Year 2013 (the Earned Sick Time Act).

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	\$0	\$0	\$0
Net	\$0	\$0	\$0

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

IMPACT ON EXPENDITURES: The legislation would have no impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council
Finance Division

ESTIMATE PREPARED BY: Aliya Ali, Legislative Financial Analyst

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director
Raymond Majewski, Deputy
Director/Chief Economist

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on December 10, 2013 as Proposed Intro. 1208 and was referred to the Committee on Civil Service and Labor. A hearing was held by the Committee on December 12, 2013 and the bill was laid over. Proposed Intro. 1208-A, is scheduled to be considered by the Committee on December 17, 2013, and upon successful vote of the Committee, Proposed Intro. 1208-A will 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. 1208-A:)

Int. No. 1208-A

By Council Members Brewer, Chin, Koppell, Mendez, Rose, Gennaro, Van Bramer, Dickens, Jackson and Lappin.

A Local Law to amend the administrative code of the city of New York, in relation to the provision of sick time earned by employees.

Be it enacted by the Council as follows:

Section 1. Subdivision g of section 20-912 of the administrative code of the city of New York, as added by local law 46 for the year 2013, is amended to read as follows:

g. "Employer" shall mean any "employer" as defined in section 190(3) of the labor law, but not including (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; or (iii) the city of New York or any local government, municipality or county or any entity governed by general municipal law section 92 or county law section 207[; or (iv) any employer that is a business establishment classified in section 31, 32 or 33 of the North American Industry Classification System]. In determining the number of employees performing work for an employer for compensation during a given week, all employees performing work for compensation on a full-time, part-time or temporary basis shall be counted, provided that where the number of employees who work for an employer for compensation per week fluctuates, business size may be determined for the current calendar year based upon the average number of employees who worked for compensation per week during the preceding calendar year, and provided further that in determining the number of employees performing work for an employer that is a chain business, the total number of employees in that group of establishments shall be counted.

§ 2. Subdivision a of section 20-913 of the administrative code of the city of New York, as added by local law 46 for the year 2013, is amended to read as follows:

a. All employees have the right to sick time pursuant to this chapter.

1. All employers that employ fifteen or more employees, *except for any employer that is a business establishment classified in sector 31, 32 or 33 of the North American Industry Classification System*, and all employers of one or more domestic workers shall provide paid sick time to their employees in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section.

2. All employees not entitled to paid sick time pursuant to this chapter shall be entitled to unpaid sick time in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section.

3. All employers that employ fifteen to nineteen employees, and all employers of one or more domestic workers, shall provide unpaid sick time in accordance with the provisions of this chapter and the schedule set forth in section 7 of the local law which enacted this section during any period in which, pursuant to the schedule set forth in section 7 of the local law which enacted this section, such employers are not required to provide paid sick time but employers that employ twenty or more employees, *except for any employer that is a business establishment classified in sector 31, 32 or 33 of the North American Industry Classification System*, are required to provide paid sick time.

§ 3. Subdivision h of section 20-913 of chapter 8 of title 20 of the administrative code of the city of New York, as added by local law 46 for the year 2013, is amended to read as follows:

h. Except for domestic workers, *up to forty hours of* unused sick time as provided pursuant to this chapter shall be carried over to the following calendar year; provided that no employer shall be required to (i) allow the use of more than forty hours of sick time in a calendar year or (ii) carry over unused paid sick time if the employee is paid for any unused sick time at the end of the calendar year in which such time is accrued and the employer provides the employee with an amount of paid sick time that meets or exceeds the requirements of this chapter for such employee for the immediately subsequent calendar year on the first day of [the immediately subsequent calendar] *such* year.

§ 4. Subdivision a of section 20-919 of the administrative code of the city of New York, as added by local law 46 for the year 2013, is amended to read as follows:

a. An employer shall provide an employee *either* at the commencement of employment *or within thirty days of the effective date of this section, whichever is later*, with written notice of such employee's right to sick time pursuant to this chapter, including the accrual and use of sick time, the calendar year of the employer, and the right to be free from retaliation and to bring a complaint to the department. Such notice shall be in English and the primary language spoken by that employee, provided that the department has made available a translation of such notice in such language pursuant to subdivision b of this section. Such notice may also be conspicuously posted at an employer's place of business in an area accessible to employees.

§ 5. This local law shall take effect on the same date and in the same manner as local law 46 for the year 2013.

MICHAEL C. NELSON, Chairperson; JAMES F. GENNARO, MELISSA MARK-VIVERITO, ERIC A. ULRICH; Committee on Civil Service and Labor, December 17, 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 Community Development

Report for Int. No. 891-A

Report of the Committee on Community Development in favor of approving and adopting, as amended, a Local Law to amend the New York city charter, in relation to requiring the mayor to submit an annual report on poverty.

The Committee on Community Development, to which the annexed amended proposed local law was referred on June 28, 2012 (Minutes, page 2613), respectfully

REPORTS:

INTRODUCTION

The Committee on Community Development, chaired by Council Member Albert Vann, conducted a hearing on December 11, 2013, concerning Proposed Int. No. 891-A, "a Local Law to amend the New York City Charter, in relation to requiring the mayor to submit an annual report on poverty." The Committee, following this hearing and after due deliberation, now has an amended Proposed Int. No. 891-A before it for disposition.

BACKGROUND

Economists generally agree that the purpose of a poverty measure is "to inform the public and its political leadership of the extent, distribution, and depth of economic deprivation and to motivate and regulate the allocation of revenues to address it."¹ In 1964, the United States Census Bureau began to measure poverty, which was then indicated to be individuals or families with inadequate income for the consumption of necessary food and other goods and services.² The Bureau's statistical definition of poverty was developed by the United States Department of Agriculture (USDA), which constructed 'food plans' for families based on 1955 estimates of nutritional needs for adults and children. An earlier USDA food consumption survey revealed that approximately one-third of a family's income was spent on food. This one-third ratio became the working standard for the original poverty threshold.³

Official Poverty Measure

The Census Bureau currently measures poverty by using an income threshold below which an individual or family is deemed to live in poverty. The threshold varies according to the number of adults and related children in a family and the related income for that individual or group. An individual or family's total pre-tax income is compared to a matrix threshold. If a family's income is below the threshold, then all members of the family are categorized as living in poverty.

The thresholds are uniform across the nation (with the exception of Hawaii and Alaska) and do not adjust for the cost of living differences across geographic regions of the country. The official poverty threshold is the same for a person living in a one-bedroom apartment in Mississippi or Manhattan. The poverty threshold changes annually as it is adjusted for inflation using the Consumer Price Index.

Policymakers and researchers recognize that the Census Bureau's official poverty measure "does not adequately gauge the needs and resources of American families."⁴ The official poverty measure primarily relies on pre-tax income to determine poverty. In-kind benefits such as public housing vouchers, food stamps and Medicaid are not included; nor are other significant cost such as housing factored in.⁵ As a result, depictions of poverty using the Census Bureau measure are often inaccurate.

Contrasting the City's own measure of poverty against the federal measure, New York City's poverty rolls have grown by 160,000 people. The differences in poverty statistics between the Census Bureau's reported numbers and the city's numbers are based on the City's different approach in measuring poverty and setting the corresponding threshold.

CEO'S Poverty Measure

The New York City Center for Economic Opportunity (CEO) is the first official administrative unit to track poverty in the City. In 2008, the CEO developed a more complex, contemporary and balanced poverty measure than the official measure used by the Census Bureau. CEO's poverty measurement is based on a method proposed by the National Academy of Science (NAS) in 1995⁶⁷ and the Supplemental Poverty Measure (SPM)⁸ created by the Census Bureau and the U.S. Bureau of Labor Statistics.⁹

The NAS' method of measuring poverty establishes a poverty threshold by calculating the spending by a sub-group of families on items such as clothing, shelter, utilities and food, and also includes a multiplier for other necessities, such as personal care expenses, non-work transportation and household expenses.¹⁰ The NAS' model is further contrasted from the official measure because instead of merely relying on pre-tax cash (income from all sources such as wages, salaries, social security benefits and government transfer payments) the NAS' model accounts for post-tax income and the value of in-kind benefits received, such as food (SNAP benefits) and housing (such as Section 8 vouchers) benefits.¹¹ The total value of these resources is applied against the poverty threshold to determine whether a measured group is categorized as living in poverty. The resulting threshold is adjusted yearly to account for improvements in living standards.¹²

Like the NAS' model, CEO's income threshold is determined by "what families spend on basic necessities" including "food, clothing, shelter and utilities" and includes the multiplier for other necessities. CEO's primary difference from the NAS' model is that it provides a local adjustment for NYC housing market costs, which significantly increases the threshold for many New Yorkers.¹³

When CEO first contrasted the official poverty measure's poverty rate for New York City with its new measure, the City's poverty rate increased significantly. The Census Bureau's 2008 official poverty rate for New York City was 17.6%; CEO's poverty rate was 22%.¹⁴

Reports on Poverty

In March 2011, CEO issued a report entitled "Policy Affects Poverty."¹⁵ The report documented the significant impact public policies made in staving off a rise in New York City poverty during the height of the Great Recession (2007-2009).¹⁶ The report primarily listed 2008 and 2009 federal tax policies and increases in food stamp provisions as the predominant policies affecting poverty.¹⁷ It praised these policies for encouraging job growth and bolstering incomes.¹⁸ The report declared that not "every anti-poverty program meets its goals and deserves to be protected," but argues that across-the-board cutbacks to programs that help low income families cannot be justified by the assertion that when it comes to poverty, "nothing works."¹⁹ The report also noted that the "insight" to recognize which programs and policy initiatives successfully prevented a material rise in New York City poverty during the Great Recession was dependent on utilization of a poverty such as the CEO poverty measure.²⁰

In April 2013, CEO released its latest report assessing the utility of the New York City poverty measure from 2005 through 2011.²¹ This report illustrated two primary findings discerned through the CEO poverty measure. The first primary finding reveals that the official poverty measure and the CEO poverty measure recorded nearly identical trends of increase and decrease in the City's rate of poverty from 2005 to 2011, despite the fact that both measures invariably produced different rates of poverty for each year during that span.²² The second primary finding of the report reveals the significant contextual differences of poverty within the City when employing the official poverty measure and the CEO poverty measure. For example, the City's poverty rate for 2011 was 19.3%, utilizing the official poverty measure; the rate was 21.3% utilizing the CEO poverty measure. Under the official poverty measure, the percentage of the City's population living in extreme poverty (recognized as 50 percent of the poverty threshold) in 2011 was 7.9 percent; the CEO poverty measure produced a rate of 5.6%.²³

The CEO's poverty measure has received national recognition, and is often considered a significant tool for policymakers.²⁴ It provides a wealth of data for government and independent observers of the city's economic circumstances. This measure of poverty is now viewed by many as an alternative form and established counter-measure to the "official" federal poverty measure²⁵ which is continually derided by critics as outdated and ineffective.²⁶

PROPOSED INTRODUCTION NO. 891-A

Proposed Int. No. 891-A would amend the New York City Charter to require the Mayor to annually submit to the Council, Borough Presidents and Community Boards a report describing the City's efforts to reduce the city's rate of poverty utilizing its own poverty measure to determine the local poverty threshold. The bill has two sections.

Bill section one amends section 16 of Chapter one of the New York City Charter by amending an existing provision to reference the required poverty report and number the provision subdivision (a) and creates a new subdivision (b).

Subdivision (a) would now require the Mayor to submit an annual report on poverty in addition to the previously required annual report on social indicators.

Subdivision (b) would provide that the annual report must be submitted to the Council, Borough Presidents and Community Boards and must describe the City's efforts to reduce poverty as measured by a poverty threshold established by the New York City Center for Economic Opportunity, its successor or by an analogous measure based upon the recommendations of the National Academy of Sciences. The report must also cover the number of city residents living in poverty and those determined to be near poverty, provide such poverty data organized demographically, include budgetary and performance information and describe the City's plans to reduce poverty.

Bill section two provides that the local law would take effect immediately upon enactment.

Changes to Proposed. Int. 891-A following the December 11, 2013 hearing:

Technical changes were made to the bill, for the purposes of clarity, to better identify the issues and communities that will be required to be included in such annual reports.

¹ Bavier, Richard, A legislatively-based poverty threshold, October 5, 2009, page 3.

² Citro, Constance F. and Robert T. Michael, Measuring Poverty: A New Approach, April, 1995 (overview) re

³ Hutto, Nathan, Jane Waldfogel, Neeraj Kaushal and Irwin Garginkel, Improving the Poverty Measure, March 2011,

⁴ Hutto, Nathan, Jane Waldfogel, Neeraj Kaushal and Irwin Garginkel, Improving the Poverty Measure, March 2011

⁵ U.S. Census Bureau, *Current Population Survey, Definitions and Explanations*, available at <http://www.census.gov/population/www/cps/cpsdef.html> (last visited Dec. 7, 2011).

⁶ Amy Goldstein, *New formula to give fresh look at U.S. poverty*, *The Washington Post*, Mar. 3, 2010.

⁷ National Academy of Sciences Press, "Measuring Poverty, A New Approach", 1995.

⁸ The SPM is based on the NAS' model and utilizing additional research and recommendations from an "interagency Technical Working Group" made two additions to the NAS' model: (1) expanded type of family unit, whose expenditures for necessities is used to determine the poverty threshold and (2) use of a 5-year (as opposed to 3-year) average of spending data to provide an update of the poverty threshold. See New York City Center for Economic Opportunity, *The CEO Poverty Measure, 2005-2011*, April 2013, available at

http://www.nyc.gov/html/ceo/downloads/pdf/ceo_poverty_measure_2005_2011.pdf, p. 2

⁹ New York City Center for Economic Opportunity, *The CEO Poverty Measure, 2005-2011*, April 2013, available at

http://www.nyc.gov/html/ceo/downloads/pdf/ceo_poverty_measure_2005_2011.pdf, p. 2

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ "Policy Affects Poverty", Center for Economic Opportunity, March 2011

¹⁴ Center for Economic Opportunity, *The CEO Poverty Measure, 2005-2008, A Working Paper by the Center for Economic Opportunity*, Page 10.

¹⁵ New York City Center for Economic Opportunity, *Policy Affects Poverty, The CEO Poverty Measure, 2005-2009*, March 2011, available at

http://www.nyc.gov/html/ceo/downloads/pdf/ceo_poverty_measure_2005_2011.pdf.

¹⁶ *Id.* at 12.

¹⁷ *Id.* at 33-34.

¹⁸ *Id.* at 33.

¹⁹ *Id.* at xii.

²⁰ *Id.* at xi

²¹ New York City Center for Economic Opportunity, *The CEO Poverty Measure, 2005-2011*, April 2013, available at

http://www.nyc.gov/html/ceo/downloads/pdf/ceo_poverty_measure_2005_2011.pdf.

²² *Id.* at iii.

²³ *Id.* at ix and viii.

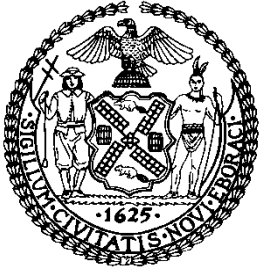
²⁴ Amy Goldstein, *New formula to give fresh look at U.S. poverty*, WASHINGTON POST, Mar. 3, 2010, available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/03/02/AR2010030202316.html>.

²⁵ Testimony of Kristin Morse, Deputy Director and Mark Levitan, Director of Poverty Research, Center for the Center for Economic Opportunity, before the Committees on Community

Development and General Welfare, December 12, 2011, Transcript, pages 21-25.

²⁶ *Id.*

(The following is the text of the Fiscal Impact Statement for Int. No. 891-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: 891-A
COMMITTEE:
Community
Development

TITLE: A Local Law To amend the New York City charter, in relation to requiring the mayor to submit an annual report on poverty.
SPONSOR(S): Council Members Lander, Vann, Brewer, Chin, Dromm, Fidler, James, Mark-Viverito, Mendez, Rose, Van Bramer, Williams, Wills, Gonzalez, Rodriguez, Ferreras, Barron, Jackson and Halloran

SUMMARY OF LEGISLATION: Proposed Int. No. 891-A would amend the New York City Charter to require the Mayor to annually submit to the Council, Borough Presidents and Community Boards a report describing the City’s efforts to reduce the City’s rate of poverty utilizing its own poverty measure to determine the local poverty threshold.

The annual report must be submitted to the Council, Borough Presidents and Community Boards and must describe the City’s efforts to reduce poverty as measured by a poverty threshold established by the New York City Center for Economic Opportunity, including the number of city residents living in poverty and those determined to be near poverty, have such poverty data organized demographically, include budgetary and performance information and describe the city’s plans to reduce poverty.

The local law would take effect immediately upon enactment

EFFECTIVE DATE: Effective Immediately

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: This legislation would have no impact on revenues.

IMPACT ON EXPENDITURES: The New York City Center for Economic Opportunity, New York City Administration of Children Services, New York City Human Resources Administration and the New York City Department of Homeless Services can use existing resources to comply with this local law, and there will be no or minimal impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Kenneth W. Grace, Legislative Financial Analyst

ESTIMATED REVIEWED BY: Latonia McKinney, Deputy Director
Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: Introduced as Intro. 891 on June 28th, 2012 and referred to the Community Development Committee. A hearing by the Community Development Committee was held on December 11th, 2013 and the bill was laid over; Intro. 891 has been amended, and the amended version, Proposed Int. 891-A was laid on December 11th, 2013 and will be considered by the Committee on December 17th, 2013, and upon successful vote by the Committee, will be submitted to the full Council for a vote.

DATE SUBMITTED TO COUNCIL: December 16th, 2013

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 891-A:)

Int. No. 891-A

By Council Members Lander, Vann, Brewer, Chin, Dromm, Fidler, James, Mark-Viverito, Mendez, Rose, Van Bramer, Williams, Wills, Gonzalez, Rodriguez, Ferreras, Barron, Jackson, Gennaro, Koppell, Greenfield, Lappin and Halloran.

A Local Law to amend the New York city charter, in relation to requiring the mayor to submit an annual report on poverty.

Be it enacted by the Council as follows:

Section 1. Section 16 of the New York city charter, as added by the vote of the electors on November 7, 1989, is amended to read as follows:

§ 16. [Report] *Reports on social indicators and poverty.* a. The mayor shall submit an annual report to the council, borough presidents, and community boards analyzing the social, economic and environmental health of the city and proposing strategies for addressing the issues raised in such analysis. The report shall present and analyze data on the social, economic and environmental conditions which are significantly related to the jurisdiction of the agencies responsible for the services specified in section twenty seven hundred four, the health and hospitals corporation, and such other agencies as the mayor shall from time to time specify. The report shall include the generally accepted indices of unemployment, poverty, child welfare, housing quality, homelessness, health, physical environment, crime, and such other indices as the mayor shall require by executive order or the council shall require by local law. Such report shall be submitted no later than sixty days before the community boards are required to submit budget priorities pursuant to section two hundred thirty and shall contain: (1) the reasonably available statistical data, for the current and previous five years, on such conditions in the city and, where possible, in its subdivisions; and a comparison of this data with such relevant national, regional or other standards or averages as the mayor deems appropriate; (2) a narrative discussion of the differences in such conditions among the subdivisions of the city and of the changes over time in such conditions; and (3) the mayor's short and long term plans, organized by agency or by issue, for responding to the significant problems evidenced by the data presented in the report.

b. *No later than March thirty-first of each year, the mayor shall submit an annual report to the council, borough presidents and community boards that shall contain (1) a description of the city’s efforts to reduce the rate of poverty in the city as determined by the poverty measure and poverty threshold established by the New York city center for economic opportunity or its successor or by an analogous measure based upon the recommendations of the national academy of sciences; (2) information on the number and percentage of city residents living below the poverty threshold and the number and percentage of city residents living between one hundred one percent and one hundred fifty percent of the poverty threshold; (3) poverty data disaggregated by generally accepted indices of family composition, ethnic and racial groups, age ranges, employment status, and educational background, and by borough for the most recent year for which data is available and by neighborhood for the most recent five year average for which data is available, along with a comparison of this data with such relevant national, regional or other standards or averages as deemed appropriate; (4) budgetary data, with a description of and outcomes on the programs and resources allocated to reduce the poverty rate in the city and estimates on the poverty reducing effects of major public benefit programs available throughout the city and how such programs serve key subgroups of the city’s population including, but not limited to, children under the age of eighteen, the working poor, young persons age sixteen to twenty-four, families with children, and residents age sixty-five or older; and (5) a description of the city’s short and long term plans to reduce poverty.*

§ 2. This local law shall become effective immediately upon enactment.

ALBERT VANN Chairperson; DIANA REYNA, VINCENT J GENTILE, MELISSA MARK-VIVERITO; DONOVAN J. RICHARDS; Committee on Community Development, December 17, 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 Consumer Affairs

Report for Int. No. 876-A

Report of the Committee on Consumer Affairs 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 the operation of a sidewalk cafe.

The Committee on Consumer Affairs, to which the annexed amended proposed local law was referred on June 13, 2012 (Minutes, page 2023), respectfully

REPORTS:

I. INTRODUCTION

On Wednesday, December 18, 2013, the Committee on Consumer Affairs, chaired by Council Member Daniel R. Garodnick, will vote on Proposed Introductory Bill Number 876-A (“Intro. 876-A”), a Local Law to amend the Administrative Code of the City of New York, in relation to the operation of a sidewalk cafe; and Proposed Introductory Bill Number 1039-A (“Intro. 1039-A”), a Local Law to amend the Administrative Code of the city of New York, in relation to the review and approval of petitions for revocable consents to operate sidewalk cafes. The Committee previously held a hearing on both pieces of legislation on Tuesday, May 7, 2013.

II. BACKGROUND

Sidewalk cafes, which are licensed and regulated by the Department of Consumer Affairs (“DCA”), are a ubiquitous part of New York City’s urban landscape and popular draw for patrons of restaurants and bars throughout the five boroughs. According to DCA, there are currently 765 licensed sidewalk cafes in New York City.¹ The Administrative Code defines a sidewalk cafe as a “portion of a restaurant operated under permit from the department of health and mental hygiene, located on a public sidewalk that is either an enclosed or unenclosed sidewalk cafe.”² There are three different types of sidewalk cafes: an enclosed sidewalk cafe, an unenclosed sidewalk cafe, and a small unenclosed sidewalk cafe.³ An enclosed cafe is one that “is constructed predominantly of light materials such as glass, slow-burning plastic or lightweight metal,” encompassing the seating area.⁴ An unenclosed sidewalk cafe has no such containing structure, though the seating area may be surrounded by a fence, railing or planters, and may be covered by an awning.⁵ A small unenclosed sidewalk cafe consists of a single row of tables and chairs extending no farther than 4.5 feet from the side of the business.⁶

Because sidewalk cafes by their nature obstruct pedestrian traffic, they are subject to a number of regulations. According to DCA, sidewalk cafes must leave a path on the sidewalk that is at least eight feet wide, and in the event that the entire sidewalk is greater than 16 feet, more than half of the sidewalk must be kept clear for pedestrians.⁷ Furthermore, sidewalks must be free of anything that may cause a person to trip, such as a sandbag, and the sidewalk cafe must have a service aisle that is a minimum of three feet wide so that the server is not forced to deliver orders from the sidewalk.⁸ Sidewalk cafes must also be a set distance from certain types of street furniture. For example, a sidewalk cafe must be at least ten feet from a fire hydrant, eight feet from a mailbox, and three feet from a subway grate.⁹ Any structures that might contain a cafe, such as a fence or railing, must be self-supporting, a maximum of 30 inches tall, and easily removable, with the exception of small unenclosed cafes, where such structures are not permitted.¹⁰ Any overhead structure, such as a canopy or umbrella, must remain within the footprint of the sidewalk cafe.¹¹ Additionally, licensed sidewalk cafes may not deviate from the number of tables and the types of items that were approved by DCA upon issuance of the license.¹²

Sidewalk cafes are also subject to a number of other regulations that would limit the nuisance they might present to neighboring homes and businesses. For

for the Lower Ma_____

¹ Dep’t of Consumer Affairs, *Instant License Check, Sidewalk Cafe*, at <https://a866-bcportal.nyc.gov/BCPortals/LicenseCheckResults.aspx?EntityName=&LicenseNumber=&Zip=&LicenseCat=013>, (accessed May 1, 2013).

² N.Y.C. Admin. Code §20-223.

³ Dep’t of Consumer Affairs, *Sidewalk Café Design and Regulations Guide*, at http://www.nyc.gov/html/dca/downloads/pdf/swc_design_regulations_guide.pdf, (Accessed May 2, 2013).

⁴ N.Y.C. Admin. Code §20-223(b).

⁵ *Supra* note 3.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

example, unenclosed and small unenclosed sidewalk cafes may only operate between 10:00 a.m. and midnight on Sunday, 8:00 a.m. and midnight on Monday through Thursday, and between 8:00 a.m. and 1:00 a.m. on Friday and Saturday.¹³ Enclosed sidewalk cafes may not be open more than 20 hours a day and may only operate between 8:00 a.m. and 4:00 a.m.¹⁴ Additionally, businesses must take steps to minimize noise when removing tables and chairs at the end of the night or risk incurring a penalty.¹⁵ Businesses licensed by the State Liquor Authority to serve alcohol on the premises must provide waiter service and maintain a tidy sidewalk cafe area.¹⁶ Finally, licensees must conspicuously display both their DCA sidewalk cafe license and a sign indicating whom a person could contact to register a complaint.¹⁷

Obtaining a sidewalk cafe license is a multi-step process. Prior to submitting a license application, the business must first ensure that the proposed cafe meets the zoning requirements and that the sidewalk that will be used is at least 12 feet wide.¹⁸ The business must also possess a current New York City Department of Health and Mental Hygiene food service establishment permit prior to beginning the application process.¹⁹ In addition to the basic license application, prospective licensees must also submit numerous documents and certifications, and must obtain approval for a revocable consent to construct and operate a sidewalk cafe.²⁰

There are also a number of fees associated with obtaining a sidewalk cafe license, including a two-year license fee of \$510; a revocable consent application fee of \$445; and an annual revocable consent fee for the street space being used, which varies based on the location, square footage, and type of sidewalk cafe.²¹ Unenclosed and small unenclosed sidewalk cafes are also responsible for a \$310 plan review fee and a \$1,500 security deposit.²² Enclosed sidewalk cafes applicants must submit a \$4,000 security deposit and a City Planning Fee of \$55 per seat with a minimum of \$1,360.²³ Businesses that modify their plans after they submit their license applications are subject to an additional \$175 fee for modification of the revocable consent.²⁴ Enclosed sidewalk cafe applicants that modify their plans after submission must again pay the City Planning Fee.

A business with a licensed sidewalk cafe must renew its license every two years and must not have any outstanding fines or consent fees prior to renewal.²⁵ The paperwork involved in renewing a sidewalk cafe license is similar to that of the initial application process. Applicants for renewal would also need to submit a notarized certification by broker affirming the accuracy of the insurance certificate, a notarized letter detailing changes to sidewalk since the last application submission (including street furniture and sidewalk cafe area), and certified or registered mail receipts of the notification sent to residents.²⁶ Applicants must pay a license renewal fee of \$510 and a revocable consent renewal fee of \$455.²⁷ If the square footage of an unenclosed sidewalk cafe has changed since its last application or renewal, the applicant will be required to pay an additional \$310 plan review fee.²⁸ Enclosed sidewalk cafes are also required to pay the New York City Department of City Planning (“DCP”) a renewal fee of \$27.50 per seat (with a minimum of \$680) or, if changes have been made, \$55 per seat (with a minimum of \$1,360).²⁹ Licensees continue to be responsible for paying the annual revocable consent fee.

Within five days of receiving an application, DCA will forward copies of the petition for revocable consent for any enclosed sidewalk cafe to the Landmarks Preservation Commission, DPC and the Department of Environmental Protection for review, each of which has 21 days to submit any objections in writing to DCA.³⁰ If the agencies do not respond within the 21 days, they are deemed not to have any objections.³¹ DCA will also forward the petition for any type of sidewalk cafe, for

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¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Dep’t of Consumer Affairs, *License Application Checklist*, at 2, at http://www.nyc.gov/html/dca/downloads/pdf/swc_license_app_materials.pdf, (accessed on May 2, 2013).

¹⁹ *Id.*, at 1.

²⁰ *Id.*, at 2-4 (a sales tax identification number or a certificate of authority application confirmation number; a sidewalk cafe compliance checklist, a form that, when completed, will “demonstrate that the proposed cafe meets City requirements;” a copy of the insurance certificate for the business’s premises naming DCA as the certificate holder; a petition for revocable consent, the permission a business must be granted by the City before using the sidewalk space; a substitute form W-9; a copy of a notification letter sent to all residents who live within 50 feet of either direction from the proposed sidewalk cafe; an original, notarized affidavit confirming the fact that the notification letter has been sent; scale drawings of the proposed sidewalk cafe; photographs of the property on which the proposed sidewalk cafe will be situated; a completed copy of the landowner’s consent to operate a sidewalk cafe; a copy of a completed zero tolerance police affirmation, which affirms the business will not attempt to engage in any form of bribery with a governmental entity; a completed child support certification form; and a completed copy of the granting authority to act affirmation, which enables someone appointed by the applicant to file the application in his or her place).

²¹ *Id.*, at 5.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ Dep’t of Consumer Affairs, *License and Revocable Consent Renewal Requirements for Unenclosed Sidewalk Cafe*, at http://www.nyc.gov/html/dca/html/licenses/renew_sidewalk_cafe.shtml, (Accessed on May 2, 2013).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ Dep’t of Consumer Affairs, *License and Revocable Consent Renewal Requirements for Enclosed Sidewalk Cafe*, at http://www.nyc.gov/html/dca/html/licenses/renew_sidewalk_cafe2.shtml, (Accessed on May 2, 2013).

³⁰ N.Y.C. Admin. Code §20-225(a) and (b).

³¹ N.Y.C. Admin. Code §20-225(b).

informational purposes, to the Speaker of the City Council and the Council Member in whose district the cafe is situated, and the Community Board, which corresponds to the location of the business, for comments.³² The Community Board will then hold a public hearing and issue its opinion to DCA, recommending, either a denial, an approval, or an approval with modifications.³³ The Community Board has 45 days within which to make this recommendation or waive its right to do so.³⁴ Within the next 30 days, DCA will hold a public hearing and then make a recommendation to the City Council for disapproval, approval, or approval with modifications.³⁵ If DCA does not make a determination within that time period than the petition will be considered denied.³⁶ If the City Council does not call up the petition for a vote within 20 days of the date that the Council received a recommendation from DCA, than the petition is considered approved.³⁷ If the City Council calls up the application for a vote, it has 30 additional days to approve, approve with modifications or disapprove the petition.³⁸ DCA then sends the approved petition to the Mayor’s Office of Contract Services (“MOCS”) for approval for revocable consent, a process that may take up to ten days. Finally, upon approval of the revocable consent, DCA issues the license.

Sidewalk cafe operators must revisit this process again prior to the expiration of their license. Once DCA has received all the applications and fees, and has confirmed that the applicant’s license is in good standing, it will provide the applicant with a temporary operating letter,³⁹ which allows sidewalk cafes to continue operating while the renewal for revocable consent is being reviewed. DCA will only renew the license once the revocable consent petition has been approved.⁴⁰

The penalty for operating a sidewalk cafe without the appropriate DCA license is a fine of no less than \$200 and no more than \$1,000 for the first violation and subsequent violations issued on the same day, and a fine of no less than \$500 and no more than \$2,000 for subsequent violations issued on separate days within two years of the first violation.⁴¹ Similar fines can be issued to licensed cafes operating in violation of any Administrative Code provisions, and DCA may seal a cafe upon repeated violations of the Code or of terms and conditions of the cafe’s license or revocable consent.⁴²

III. INTRODUCTORY BILLS

a. Intro. 876-A

Intro. 876-A would affect the process for renewing a license and revocable consent to operate a sidewalk cafe in two ways. First, Intro. 876-A would lengthen the term of the revocable consent. Currently, the Administrative Code sets the license term at two years and is silent on the term of the revocable consent. DCA rulemaking, however, set the revocable consent term to two years as well.⁴³ As a result, the license and revocable consent generally expire at the same time every two years.⁴⁴ Intro. 876-A would lengthen the term of the revocable consent as follows: (i) if petitioning for the first time, the revocable consent term would be two years; and (ii) if petitioning to renew an existing revocable consent, the revocable consent term would be four years. Because Administrative Code sets the license term at two years, Intro 876-A would refer to the revocable consent terms as either one license term (two years) or two license terms (four years).

Second, Intro. 876-A would prevent existing sidewalk cafes from being treated as unlicensed while a petition to renew a revocable consent is pending. 876-A would treat any petitioner renewing a revocable consent as licensed if such petitioner: (i) submitted a timely and complete petition to renew a revocable consent that has not yet been approved or denied; (ii) held a valid sidewalk cafe license at the time the petition was submitted; and (iii) provides proof to DCA that the petitioner has cured any violations of sidewalk cafe regulations within ten days of being found guilty of such violations, or by the earliest practicable date if a cure within ten days is not possible.

b. Intro. 1039-A

Intro. 1039-A would streamline the application and renewal process for a revocable consent to operate a sidewalk cafe. First, Intro. 1039-A would clarify that a community board has 45 days to hold a public hearing and submit comments to DCA on an application. After 45 days, DCA would accept comments from a community board at the discretion of the DCA Commissioner.

Second, Intro. 1039-A would shorten the time period during which DCA must approve, approve with modifications or deny a revocable consent petition by permitting DCA to waive its public hearing on the petition. Further, if the hearing is waived, Intro. 1039-A would require DCA to submit all decisions to approve or approve with modifications to the Council within ten days of the expiration of the community board’s 45 day period to review the petition. Additionally, Intro. 1039-A

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³² N.Y.C. Admin. Code §20-225(a).

³³ *Supra* note 18, at 5.

³⁴ *Id.*

³⁵ *Id.*

³⁶ N.Y.C. Admin. Code §20-225(f).

³⁷ *Supra* note 18, at 6.

³⁸ *Id.*

³⁹ *Supra* note 26.

⁴⁰ *Id.*

⁴¹ N.Y.C. Admin. Code § 20-227.1(a).

⁴² N.Y.C. Admin. Code § 20-227.1.

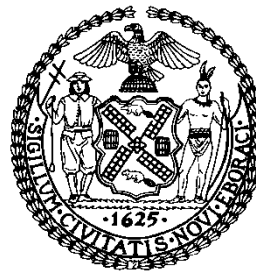
⁴³ *Id.*

⁴⁴ See N.Y.C. Admin. Code § 20-224(d); R.C.N.Y § 1-02(d) and (e).

would allow a petitioner to submit a written request to DCA for additional time to correct any deficiencies in the petition. Pursuant to Intro 1039-A, DCA could grant the petitioner up to 180 additional days.

Lastly, Intro 1039-A would allow the mayor to waive what is currently separate and necessary approval of the revocable consent.

(The following is the text of the Fiscal Impact Statement for Int. No. 876-A:)



THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION

PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY
DIRECTOR

FISCAL IMPACT STATEMENT

INTRO. NO: 876-A

COMMITTEE:
Consumer Affairs

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the operation of a sidewalk cafe.

SPONSOR(S): Garodnick, Brewer, Comrie, Gentile, James, Koo, Recchia, Williams, Wills and Gennaro

SUMMARY OF LEGISLATION: Proposed Intro. 876-A will amend the New York City Charter to improve the process for renewing a revocable consent required to construct and operate a sidewalk cafe in two ways. First, 876-A would extend the revocable consent term. Currently, a revocable consent must be renewed every two years. 876-A would amend the revocable consent term as follows: applicants applying for the first time would be eligible for a two year revocable consent; and applicants renewing an existing revocable consent would be eligible for a four year revocable consent.

Second, 876-A would prevent existing sidewalk cafes from being treated as unlicensed while an application to renew a revocable consent is pending. 876-A would treat any applicant renewing a revocable consent as licensed if such applicant: submitted a timely and complete application to renew a revocable consent that has not yet been approved or denied; held a valid sidewalk cafe license at the time the application was submitted; and provides proof to DCA that the applicant has cured any violations of sidewalk cafe regulations within ten days of being found guilty of such violations, or by the earliest practicable date if a cure within ten days is not possible.

EFFECTIVE DATE: This local law shall take effect one hundred and twenty days after its enactment, provided,

however, that the commissioner may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2015

FISCAL IMPACT STATEMENT:

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

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

IMPACT ON EXPENDITURES: The legislation would have no impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

New York City Department of Consumer Affairs

ESTIMATE PREPARED BY: Aliya Ali, Legislative Financial Analyst

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on June 13, 2012 as Proposed Intro. 876 and was referred to the Committee on Consumer Affairs. A hearing was held by the Committee on May 7, 2013 and the bill was laid over and subsequently amended. An amended version of the legislation, Proposed Intro. 876-A, will be considered by the Committee on December 18, 2013, and upon successful vote of the Committee, Proposed Intro. 876-A will be submitted to the Full Council for a vote on December 19, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 876-A:)

Int. No. 876-A

By Council Members Garodnick, Brewer, Comrie, Gentile, James, Koo, Recchia, Williams, Wills, Gennaro and Van Bramer.

A Local Law to amend the administrative code of the city of New York, in relation to the operation of a sidewalk cafe.

Be it enacted by the Council as follows:

Section 1. Subdivision i of section 20-225 of the administrative code of the city of New York, as amended by local law number 8 for the year 2003, is amended to read as follows:

i. (1) *The term of the revocable consent shall be one license period and shall be concurrent with such license period. The term of the renewal of such revocable consent shall be two consecutive license periods and shall be concurrent with such license periods.*

(2) The consent shall be [for such term and] upon such conditions as may be provided in the approval of the petition by the department, as such approval may be modified by action of the council pursuant to subdivision h of this section, but shall be revocable at any time by the department. The separate and additional approval of the mayor shall be necessary to its validity.

§ 2. Subdivision g of section 20-226 of the administrative code of the city of New York, as amended by local law number 8 for the year 2003, is amended to read as follows:

g. (1) *The term of the revocable consent shall be one license period and shall be concurrent with such license period. The term of the renewal of such revocable consent shall be two consecutive license periods and shall be concurrent with such license periods.*

(2) The consent shall be [for such term and] upon such conditions as may be provided in the approval of the petition by the department, as such approval may be modified by action of the council pursuant to subdivision f of this section, but shall be revocable at any time by the department. The separate and additional approval of the mayor shall be necessary to its validity.

§ 3. Section 20-227.1 of the administrative code of the city of New York is amended by adding a new subdivision h to read as follows:

h. For purposes of this section, a person shall not be deemed to be operating an unlicensed sidewalk cafe if such person:

(1) *submitted a timely and complete petition to renew a revocable consent issued pursuant to section 20-225 or 20-226 of this subchapter and such petition has not yet been approved or denied by the department;*

(2) *held a valid license issued pursuant to section 20-224 of this subchapter at the time such petition to renew a revocable consent was submitted; and*

(3) *provided proof to the department that such person has cured any violation of this subchapter, or of the terms and conditions of such license or revocable consent within ten days after having been found guilty of such violation, or, where cure within ten days is not possible, at the earliest practicable date.*

§ 4. This local law shall take effect one hundred and twenty days after its enactment, provided, however, that the commissioner may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

DANIEL R. GARODNICK, Chairperson; CHARLES BARRON, G. OLIVER KOPPELL, KAREN KOSLOWITZ; Committee on Consumer Affairs, December 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 Int. No. 1039-A

Report of the Committee on Consumer Affairs 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 the review and approval of petitions for revocable consents to operate sidewalk cafes.

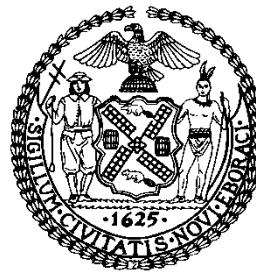
The Committee on Consumer Affairs, to which the annexed amended proposed local law was referred on April 25, 2013 (Minutes, page 1168), respectfully

REPORTS:

(For text of report, please see the Report of the Committee for Consumer Report for Int No. 876-A printed in these Minutes)

Accordingly, this Committee recommends its adoption, as amended.

The following is the text of the Fiscal Impact Statement for Int. No. 1039-A:



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

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

FISCAL IMPACT STATEMENT

INTRO. NO: 1039-A

**COMMITTEE:
Consumer Affairs**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the review and approval of petitions for revocable consents to operate sidewalk cafes.

SPONSOR(S): Reyna, Koo, Gennaro and Vallone, Jr.

SUMMARY OF LEGISLATION: Proposed Intro. 1039-A will amend the New York City Charter to streamline the review process of application for revocable consent to construct and operate a sidewalk café.

1039-A would streamline the application process in the following manner:

Permit DCA to waive its hearing on revocable consent applications. Currently, DCA is given 30 days to hold a hearing, and approve or deny an application for revocable consent. If DCA waives its hearing it could approve or deny the application within ten days.

Allow an applicant to request additional time to fix any deficiencies in their application. An applicant would be able to request up to 180 days to make changes.

Additional review by the Mayor, currently done by the Mayor's Office of Contract Services, would be optional. If this additional review is waived, the application process would be shortened by five days.

Clarify that a community board has 45 days to hold a public hearing and submit comments to DCA on an application. After 45 days, DCA would accept comments from a community board at the discretion of the DCA Commissioner.

EFFECTIVE DATE: This local law shall take effect one hundred twenty days after it shall have become a law, provided, however, that the commissioner shall take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2015

FISCAL IMPACT STATEMENT:

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

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

IMPACT ON EXPENDITURES: The legislation would have no impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Department of Consumer Affairs

ESTIMATE PREPARED BY: Aliya Ali, Legislative Financial Analyst

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on April 25, 2012 as Proposed Intro. 1039 and was referred to the Committee on Consumer Affairs. A hearing was held by the Committee on May 7, 2013 and the bill was laid over. An amended version of the legislation, Proposed Intro. 1039-A, will be considered by the Committee on December 18, 2013, and upon successful vote of the Committee, Proposed Intro. 1039-A will be submitted to the Full Council for a vote on December 19, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1039-A:)

Int. No. 1039-A

By Council Members Reyna, Koo, Gennaro, Vallone, Jr. and Van Bramer.

A Local Law to amend the administrative code of the city of New York, in relation to the review and approval of petitions for revocable consents to operate sidewalk cafes.

Be it enacted by the Council as follows:

Section 1. Section 20-225 of the administrative code of the city of New York, as amended by local law number 70 for the year 1990, subdivisions a, e, f, g, i and j as amended by local law number 8 for the year 2003, subdivision b as amended by local law number 10 for the year 1991, and subdivision h as added by local law number 70 for the year 1990, is amended to read as follows:

§ 20-225 Review and approval of petitions for revocable consents to construct and operate enclosed sidewalk cafes which do not require special permits. A petition for a revocable consent to construct and operate an enclosed sidewalk cafe which does not require a special permit modification pursuant to the zoning resolution shall be reviewed and approved in the following manner:

a. The petition shall be in such form as prescribed by the department. The petition shall be filed with the department which, within five days of the filing of such petition, shall forward copies thereof to the department of city planning, the department of environmental protection and the landmarks preservation commission for review pursuant to subdivision b of this section. The department shall forward copies of the petition, within five days of the filing of such petition, to the speaker of the council and to the council member in whose district the cafe is proposed to be located, for informational purposes.

b. The agencies to which the petition has been forwarded shall review the petition and shall indicate any objections to such petition, including any determination by the landmarks preservation commission that the petition requires a certificate of appropriateness, by filing written comments with the department of city planning within twenty-one days of the receipt thereof. The failure of an agency to

indicate its objections within the prescribed time to the department of city planning shall be construed to mean that such agency has no objections.

c. If no objections to such petition are filed within the twenty-one day period prescribed in subdivision b of this section, the department of city planning shall forward the petition within five days after the close of such period to the *president of the borough in which the cafe is proposed to be located, for information purposes, and to the community board for the community district in which the cafe is proposed to be located, and such board shall review such petition pursuant to subdivision e of this section.*

d. If any objections exist, including any objections by the department of city planning, the department of city planning shall inform the petitioner of the objections and that review of the petition has been stayed until the objections indicated are resolved. If the objections are not resolved within six months from the date the petitioner is informed that review of the petition has been stayed, such petition shall be deemed to have been withdrawn. If the objections are resolved within the prescribed time, the department of city planning shall forward the petition within five days of such resolution to the council member in whose district the cafe is proposed to be located and to the community board for the community district in which the cafe is proposed to be located, and such board shall review the petition pursuant to subdivision e of this section.

e. The community board shall, not later than forty-five days after receipt of such petition, either (i) notify the public of the petition in a manner specified by the city planning commission, conduct a public hearing thereon and submit a written recommendation to the department and to the council or (ii) waive by a written statement its public hearing and recommendation on such petition, and submit such statement to the department and to the council. *If the community board submits a recommendation on a petition after the forty-five day time period has expired, such recommendation may be accepted by the department at the sole discretion of the commissioner.*

f. Within thirty days after the expiration of the forty-five day period allowed for the filing of a recommendation or waiver by the community board pursuant to subdivision e of this section, the department shall (i) hold a public hearing on the petition, (ii) approve the petition, disapprove it or approve it with modifications, and (iii) file with the council any such decision to approve or approve with modifications, together with the petition, *except that if the department waives its public hearing, the department shall file with the council a written statement of such waiver and any decision to approve or approve with modifications, together with the petition, within ten days after the expiration of the period allowed for the community board filing of a recommendation or waiver pursuant to subdivision e of this section.* If [within the time period provided,] the department fails to [take the actions on a petition] *file with the council any decision to approve or approve with modifications, together with the petition, as provided [for] in the preceding sentence, the petition shall be deemed to have been denied, unless the petitioner submits a request in writing to the department for an additional period of time, which shall not exceed one hundred eighty days, to correct any deficiencies in the petition. [For] Unless the department waives its public hearing, for a period of not less than fifteen calendar days prior to the date of such public hearing, the petitioner shall post notice of the public hearing in a place conspicuous to public view at the location of the proposed sidewalk cafe. At least fifteen days prior to the date of such hearing, the department shall give notice to the community board for the district in which the cafe is proposed to be located, to the president of the borough in which the cafe is proposed to be located and to the council member in whose district the cafe is proposed to be located. Not less than five calendar days prior to the date of any such hearing, notice of the hearing shall be published in the City Record and in one newspaper of local circulation in the community where the cafe is proposed to be located. No other notice requirements shall apply to hearings for revocable consents for sidewalk cafes.*

g. Within twenty days of the date the petition is received by the council pursuant to subdivision f of this section, the council may resolve by the majority vote of all council members to review the petition. If the council does not so resolve, the approval of the petition by the department shall be forwarded to the mayor for approval pursuant to subdivision i of this section, *unless, in accordance with that subdivision, the petition is one for which the mayor has determined that separate and additional mayoral approval is not required.*

h. If the council resolves to review a petition pursuant to subdivision g of this section, the council shall hold a public hearing, after giving public notice not less than five days in advance of such hearing. The council shall take final action on the petition and shall file with the mayor its resolution, if any, with respect to the petition, *except that if, in accordance with subdivision i of this section, the petition is one for which the mayor has determined that separate and additional mayoral approval is not required, the council shall file its resolution with the department. Such filing of the resolution shall take place within fifty days of the filing of the petition with the council pursuant to subdivision f of this section. The affirmative vote of a majority of all the council members shall be required to approve, approve with modifications or disapprove the petition. Any modifications by the council shall not affect the terms of any proposed revocable consent agreement which relate to term, compensation, revocability, exclusivity, security, insurance, indemnification, erection, maintenance or removal of any structure, right of access by the city and rights of abutting property owners. If within the time period provided for in this subdivision, the council fails to act or fails to act by the required vote on a petition, the council shall be deemed to have approved the petition.*

i. The consent shall be for such term and upon such conditions as may be provided in the approval of the petition by the department, as such approval may be modified by action of the council pursuant to subdivision h of this section, but shall be revocable at any time by the department. The separate and additional approval of the mayor shall be necessary to its validity, *unless the mayor has determined that*

such approval is not required for petitions reviewed and approved pursuant to subdivisions a through h of this section, or any category of such petitions.

j. Consents for sidewalk cafes shall provide for fees to be paid annually to the city during the continuance of the consent. Such fees shall be calculated pursuant to a formula established by rule or by local law, which shall apply uniformly to all consents for enclosed sidewalk cafes. The department shall file with the council a written recommendation for a formula to be used to calculate such fees.

§ 2. Section 20-226 of the administrative code of the city of New York, as amended by local law number 70 for the year 1990, subdivisions a through i as amended by local law number 8 for the year 2003 and subdivisions c, d, e, f, g, h and i as relettered by local law number 8 for the year 2003, is amended to read as follows:

§ 20-226 Review and approval of petitions for revocable consents to operate unenclosed sidewalk cafes which do not require special permits. A petition for a revocable consent to operate an unenclosed sidewalk cafe which does not require a special permit modification shall be reviewed and approved in the following manner:

a. The petition shall be in such form as prescribed by the department. The department shall forward copies of the petition, within five days of the filing of such petition, to the *president of the borough in which the cafe is proposed to be located, the speaker of the council and the council member in whose district the cafe is proposed to be located, for information purposes, and to the community board for the community district in which the cafe is proposed to be located, for review pursuant to subdivision b of this section.*

b. The community board shall, not later than forty-five days after receipt of such petition, either (i) notify the public of the petition, conduct a public hearing thereon and submit a written recommendation to the department and to the council or (ii) waive by a written statement its public hearing and recommendation on such petition and submit such statement to the department and to the council. The petitioner shall amend the petition if both the community board and the petitioner agree to modifications in writing. Such modifications shall be reflected in the written recommendations of the community board to the department and the council. *If the community board submits a recommendation on a petition after the forty-five day time period has expired, such recommendation may be accepted by the department at the sole discretion of the commissioner.*

c. [The] *Within thirty days after the expiration of the period allowed for the filing of a recommendation or waiver by the community board pursuant to subdivision b of this section, the department shall (i) hold a public hearing on the petition pursuant to subdivision d of this section [and], (ii) approve the petition, disapprove it or approve it with modifications [within thirty days of the expiration of the forty-five-day period allowed for the filing of a recommendation by the community board], and (iii) file with the council any such decision to approve or approve with modifications, together with the petition, except that if the department waives its public hearing, the department shall file with the council a written statement of such waiver and any decision to approve or approve with modifications, together with the petition, within ten days after the expiration of the period allowed for the community board filing of a recommendation or waiver pursuant to subdivision b of this section.* If [within the time period provided,] the department fails to [take the actions on a petition] *file with the council any decision to approve or approve with modifications, together with the petition, as provided [for] in the preceding sentence, the petition shall be deemed to have been denied, unless the petitioner submits a request in writing to the department for an additional period of time, which shall not exceed one hundred eighty days, to correct any deficiencies in the petition.* [Within the thirty-day time period provided for in this subdivision, the department shall file with the council any such decision to approve or approve with modifications, together with the petition.]

d. [The] *Unless the department waives its public hearing, the department shall hold a public hearing on each petition prior to approving, approving with modifications or disapproving the petition.* For a period of not less than fifteen calendar days prior to the date of such public hearing, the petitioner shall post notice of the public hearing in a place conspicuous to public view at the location of the proposed sidewalk cafe. At least fifteen days prior to the date of the hearing, the department will give notice to the community board for the district in which the cafe is proposed to be located, to the president of the borough in which the cafe is proposed to be located and to the council member in whose district the cafe is proposed to be located. Not less than [five-calendar] *five calendar* days prior to the date of any such hearing, notice of the hearing shall be published in the City Record and in one newspaper of local circulation in the community where the cafe is proposed to be located. No other notice requirements shall apply to hearings for revocable consents for sidewalk cafes.

e. Within twenty days of the date the petition is received by the council pursuant to subdivision c of this section, the council may resolve by majority vote of all the council members to review the petition. If the council does not so resolve, the approval of the petition by the department shall be forwarded to the mayor for approval pursuant to subdivision g of this section, *unless, in accordance with that subdivision, the petition is one for which the mayor has determined that separate and additional mayoral approval is not required.*

f. If the council resolves to review a petition pursuant to subdivision e of this section, the council shall hold a public hearing, after giving public notice not less than five days in advance of such hearing. The council shall take final action on the petition and shall file with the mayor its resolution, if any, with respect to the petition, *except that if, in accordance with subdivision g of this section, the petition is one for which the mayor has determined that separate and additional mayoral approval is not required, the council shall file its resolution with the department. Such filing of the resolution shall take place within fifty days of the filing of the*

petition with the council pursuant to subdivision c of this section. The affirmative vote of a majority of all the council members shall be required to approve, approve with modifications or disapprove the petition. Any modification by the council shall not affect the terms of any proposed revocable consent agreement which relate to term, compensation, revocability, exclusivity, security, insurance, indemnification, erection, maintenance or removal of any structure, right of access by the city and rights of abutting property owners. If within the time period provided for in this subdivision, the council fails to act or fails to act by the required vote on a petition, the council shall be deemed to have approved the petition. If within the time period provided for in this subdivision, the council approves the petition with modifications, the petitioner shall accept such modifications within fifteen days of such approval, or the council shall be deemed to have denied the petition.

g. The consent shall be for such term and upon such conditions as may be provided in the approval of the petition by the department, as such approval may be modified by action of the council pursuant to subdivision f of this section, but shall be revocable at any time by the department. The separate and additional approval of the mayor shall be necessary to its validity, *unless the mayor has determined that such approval is not required for petitions reviewed and approved pursuant to subdivisions a through f of this section, or any category of such petitions.*

h. Consents for sidewalk cafes shall provide for fees to be paid annually to the city during the continuance of the consent. Such fees shall be calculated pursuant to a formula established by rule or by local law, which shall apply uniformly to all consents for unenclosed sidewalk cafes. The department shall file with the council a written recommendation for a formula to be used to calculate such fees.

i. An unenclosed sidewalk cafe may not be opened or operated prior to the approval of the consent therefor by the department pursuant to this section.

§ 3. Section 20-227 of the administrative code of the city of New York, as amended by local law number 8 for the year 2003, is amended to read as follows:

§ 20-227 Review and approval of petitions for revocable consents to construct and operate sidewalk cafes which require special permits. Notwithstanding the provisions of any other section of the charter or code, a petition for a revocable consent to construct and operate a sidewalk cafe which requires a special permit modification pursuant to the zoning resolution shall be reviewed and approved in accordance with the provisions of sections one hundred ninety-seven-c and one hundred ninety-seven-d of the charter and shall require the approval of the department. The consent shall be for such term and upon such conditions as may be provided in the approval of the department but shall be revocable at any time by the department. The separate and additional approval of the mayor shall be necessary to its validity, *unless the mayor has determined that such approval is not required for petitions reviewed and approved pursuant to this section, or any category of such petitions.* The consent shall provide for fees to be paid annually to the city during the continuance of the consent. Such fees shall be calculated pursuant to a formula established by rule or by local law pursuant to section 20-225(j) or section 20-226(h).

§ 4. This local law shall take effect one hundred twenty days after it shall have become a law, provided, however, that the commissioner shall take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

DANIEL R. GARODNICK, Chairperson; CHARLES BARRON, G. OLIVER KOPPELL, KAREN KOSLOWITZ; Committee on Consumer Affairs, December 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 Int. No. 1177-A

Report of the Committee on Consumer Affairs 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 recordkeeping requirements for second-hand dealers and pawnbrokers.

The Committee on Consumer Affairs, to which the annexed amended proposed local law was referred on October 30, 2013 (Minutes, page 4496), respectfully

REPORTS:

I. INTRODUCTION

On Wednesday, December 18, 2013 the Committee on Consumer Affairs, chaired by Council Member Daniel R. Garodnick, will vote on Proposed Introductory Bill Number 1177-A (“Proposed Int. No. 1177-A”), a Local Law to amend the Administrative Code of the City of New York, in relation to recordkeeping requirements for second-hand dealers and pawnbrokers. On Monday, November 18, 2013, the Committee held its first hearing on Proposed Int. No. 1177-A. During that hearing, the Committee heard testimony from the New York City Police Department (“NYPD”), pawn brokers, and other interested parties.

II. BACKGROUND

The Department of Consumer Affairs (“DCA”) licenses all dealers in second-hand goods and pawn brokers in New York City.¹ Dealers in second-hand goods engage in the purchase and sale of second-hand, or used, items.² In addition to the second-hand dealer license, a second or specialized license is required to: (i) purchase and sell automobiles, electronics, appliances, auto parts, or firearms; (ii) repair or service electronic equipment; or (iii) engage in pawn brokering.³ Pawn brokers, also known as collateral loan brokers, are businesses that loan money to consumers upon the deposit or pledge of personal property, or purchase personal property from a consumer on the condition of selling the property back to the consumer at a stipulated price.⁴ According to DCA, as of November 7, 2013, there were 5,029 second-hand dealers, excluding used car dealers, and 464 pawn brokers in the City.

a. Record Keeping Requirements for Second-hand Dealers and Pawn Brokers

Dealers in second-hand goods and pawn brokers are subject to multiple City and State regulations. Specifically, among other things, both businesses are required to maintain records containing details about each item purchased, sold or pawned, including information related to the chain of custody of each item.⁵ These records are open to inspection by the NYPD and have historically been used by law enforcement to track down stolen items.

Dealers in second-hand goods are required to keep written records, which must be updated at the time of any purchase or sale.⁶ These written records must be made available for inspection, upon request, to “any police officer, to the commissioner or departmental inspector, or any judge of the criminal court.”⁷ The records contain a description of the item purchased or sold, including any identifying marks, such as monograms or inscriptions, and “the name, address and general description” of the customer who sold or purchased the item.⁸ If a dealer in second-hand goods purchases a pawnbroker “ticket,” or other “evidence of a pledged article or a redemption or sale of a pledged article,” than the dealer must specifically record the: (i) name and address of the person that issued the pawn ticket or other such evidence; (ii) pledge number listed on the pawn ticket or other such evidence; (iii) name and address of the pledger; (iv) amount loaned or advanced; (v) date and time of purchase, sale or redemption; (vi) name, residence and general description of the person from whom or to whom the redeemed article is purchased or sold; (vii) sum paid or received for the pawn ticket or other such evidence, or the sum paid or received for the redeemed article or pledge; and (viii) description of the pledged article as it is recorded on the pawn ticket or other such evidence.⁹

State law provides that all collateral loan brokers, which include those commonly known as pawn brokers,¹⁰ keep “books and records” containing certain specified information, including a description of the goods pawned or pledged, the amount of money loaned upon such pawn or pledge, the rate of interest associated with the loan, and the “name and residence of the person pawning or pledging [goods].”¹¹ This record must be kept in good condition for six years from the date of the transaction.¹² Additionally, the City requires that pawn brokers record, in addition to other information, “[if] notice from the police commissioner so prescribes . . . a general description as to sex, color and apparent age of every person depositing such pledges.”¹³ Finally, the Rules of the City of New York require that “[it] shall be the duty of every collateral loan broker to verify the identity of every person from whom he accepts any article as a pledge for a loan and to make and keep a written record of the nature of the evidence submitted by such person to prove his identity.”¹⁴

b. Electronic Records and Data Sharing with Law Enforcement

Recently, a Texas based company known as “LeadsOnline” developed a national database to assist in linking second-hand dealer and pawn broker records to police departments around the Country, allowing for the real-time sharing of information between business owners and law enforcement.¹⁵ According to local media reports, over 2,000 law enforcement agencies across the Country use the LeadsOnline service.¹⁶ In New York City, second-hand dealers and pawn shops are not required to participate in LeadsOnline. Nevertheless, the NYPD has encouraged local dealers to use the service to create required records in lieu of maintaining paper records. According to data sent to the Council by the NYPD earlier this year, over 700 second-hand dealers and pawnbrokers have signed up for the service.¹⁷

The NYPD praises the system as a more efficient way to work with the nearly 6,000 second-hand dealers and pawn brokers across the five boroughs, and to increase collaboration with other law enforcement agencies across the country. During the first Committee hearing on Proposed Int. No. 1177-A, the NYPD testified that it is necessary to update the way these records are maintained and inspected. Although the Department continues to do in-person inspections of second-hand dealer and pawn broker businesses that use LeadsOnline, the in-person inspections are substantially less frequent. The NYPD testified that it is important to share critical information with law enforcement in a more efficient manner. It appears that technology, such as LeadsOnline, allows the NYPD easier access to the information kept by second-hand dealers and pawn brokers—information that could lead to the recovery of stolen items.

III. PROPOSED INT. NO. 1177

Proposed Int. No. 1177-A would require all pawn brokers to create an

electronic record at the time of every transaction. Such electronic record would include the following information as it relates to every good, article or thing pawned, pledged, purchased or sold: (i) the date, time, location and type of transaction; (ii) an accurate description of each article pawned, pledged, purchased or sold, including type of article, manufacturer, make, model or serial number, inscriptions or distinguishing marks; and (iii) at the discretion of the Police Commissioner, one or more digital photographs reasonably capturing the likeness of the article. The electronic record would be maintained for six years and open to inspection by the Attorney General, the Comptroller, any police officer, the DCA Commissioner, DCA inspectors, any criminal court judge, and any other government official authorized by State or Local Law.

Proposed Int. No. 1177-A would require second-hand dealers, licensed pursuant to section 20-265 of the Administrative Code, to create an electronic record at the time of each purchase or sale of any of the following used items: (i) gold, silver, platinum or other precious metals; (ii) electrical appliances or equipment; (iii) computers; or (iv) component parts of electronic appliances, equipment or computers. Such electronic record would be maintained for six years and include the following information as it relates to such transactions: (i) the date, time, and location of transaction; (ii) an accurate description of each article purchased or sold, including the type of article, manufacturer, make, model or serial number, inscriptions or distinguishing marks; and (iii) at the discretion of the Police Commissioner, one or more digital photographs reasonably capturing the likeness of the article. Such electronic record would be open to inspection by the DCA Commissioner or any police officer, DCA inspector, judge of the criminal court, or person duly authorized in writing for such purposes by the DCA Commissioner or by any judge of the criminal court, who shall exhibit such written authority to the second-hand dealer. Such records would also be open to the inspection of any official or other person identified in, or duly authorized in writing pursuant to, any other applicable State or Local Law.

For second-hand dealers, licensed pursuant to section 20-265 of the Administrative Code, that purchase or sell pawn broker tickets, Proposed Int. No. 1177-A would require that such electronic record include the: (i) name and address of the person that issued the pawn ticket or other such evidence; (ii) pledge number listed on the pawn ticket or other such evidence; (iii) amount loaned or advanced; (iv) date and time of purchase, sale or redemption; (v) sum paid or received for the pawn ticket or other such evidence, or the sum paid or received for the redeemed article or pledge; (vi) description of the pledged article as it is recorded on the pawn ticket or other such evidence; and (vii) at the discretion of the Police Commissioner, one or more digital photographs capturing the likeness of the pledged article. Proposed Int. No. 1177-A would require that such electronic record be kept for six years.

The format of the electronic records kept by pawn brokers and second-hand dealers pursuant to Proposed Int. No. 1177-A would be specified by rules of the Police Commissioner. Such format could include a function that enables real-time data sharing with NYPD through an internet website designated by the Police Commissioner. Proposed Int. No. 1177-A would require pawn brokers and second-hand dealers to maintain the electronic equipment necessary to keep such electronic records in good working order.

Finally, Proposed Int. No. 1177-A would expand the current written record requirements for used car dealers. In addition to their current record keeping requirements, used car dealers would be required to record the: (i) vehicle identification number; (ii) purchaser’s date of birth, driver’s license number and state of issuance of such driver’s license; and (iii) destination to which any vehicle is towed or removed from the dealer’s lot. Proposed Int. No. 1177-A would not require that these, or any other records maintained by used car dealers, be kept electronically.

¹ See N.Y.S. Gen. Bus. Law §§ 40, 69-g; see also N.Y.C. Admin. Code § 20-265.

² See N.Y.C. Admin. Code § 20-264.

³ Dep’t of Consumer Affairs, *Business Tool Box: Second-hand Dealer General*, at <http://www.nyc.gov/html/dca/html/licenses/006.shtml>, accessed November 12, 2013.

⁴ N.Y.S. Gen. Bus. Law § 52.

⁵ N.Y.S. Gen. Bus. Law § 69-g; N.Y.C. Admin. Code §§ 20-273, 20-277.

⁶ N.Y.C. Admin. Code § 20-273(a).

⁷ N.Y.C. Admin. Code § 20-273(d).

⁸ *Id.*

⁹ N.Y.C. Admin. Code § 20-273(b).

¹⁰ N.Y.S. Gen. Bus. Law § 40 (“Nothing herein shall be construed to prohibit a collateral loan broker from employing the title pawnbroker in connection with the collateral loan business. The title pawnbroker shall be used exclusively by a collateral loan broker”).

¹¹ N.Y.S. Gen. Bus. Law §§ 43, 45.

¹² *Id.*

¹³ N.Y.C. Admin. Code § 277.

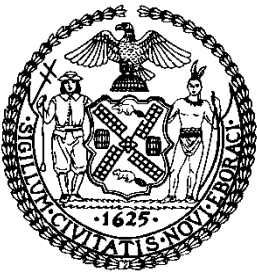
¹⁴ R.C.N.Y. § 5-226

¹⁵ <http://www.leadsonline.com/main/index.php>

¹⁶ Boniello, Kathianne, *Pawn Biz Refuses to Give Cops Info*, New York Post, at <http://nypost.com/2013/04/07/pawn-biz-refuses-to-give-cops-info/>, (April 7, 2013).

¹⁷ N.Y.C. Police Dep’t, Email from Susan Petito, Assistant Deputy Director (April 26, 2013).

(The following is the text of the Fiscal Impact Statement for Int. No. 1177-A:)



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

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

FISCAL IMPACT STATEMENT

INTRO. NO: 1177-A

**COMMITTEE:
Consumer Affairs**

TITLE: A local law to amend the administrative code of the city of New York, in relation to recordkeeping requirements for second-hand dealers and pawnbrokers.

SPONSOR(S): Garodnick, Chin, Koo, Koppell, Gennaro and Halloran III (by request of the Mayor)

SUMMARY OF LEGISLATION: Proposed Intro. 1177-A will amend the New York City Charter to require all second-hand dealers and pawnbrokers to keep electronic records of transactions related to used: gold, silver, platinum or other precious metals; electrical appliances or equipment; and computers or computer parts.

Second-hand dealers sell used goods, including items such as jewelry, clothing and cars. Both second-hand dealers and pawn brokers are licensed by the Department of Consumer Affairs. Currently, all second-hand dealers and pawn brokers are required to maintain written records containing details about the items they buy, sell, or pawn including information related to the chain of custody of each item. These records are open to inspection by the Police Department.

The format of the electronic records would be specified by rules of the Police Commissioner and could include a method that provides the Police Department with real-time data sharing capabilities. 1177-A would require second-hand dealers and pawn brokers to record the following information in electronic format: a detailed description of the item sold, purchased or pawned, including make, serial or model number, and any inscriptions or identifying marks; the date of the transaction; and a digital photograph of any item sold, purchased or pawned.

EFFECTIVE DATE: This local law shall take effect one hundred and twenty days after its enactment into law provided that the commissioner and the commissioner of the police department may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, promulgating rules.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2015

FISCAL IMPACT STATEMENT:

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

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

IMPACT ON EXPENDITURES: Because the Commission will use existing resources to implement this local law, it is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Police Department

ESTIMATE PREPARED BY: Aliya Ali, Legislative Financial Analyst

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on October 30, 2013 as Proposed Intro. 1177 and was referred to the Committee on Consumer Affairs. A hearing was held by the Committee on November 18, 2013 and the bill was laid over. An amended version of the legislation, Proposed Intro. 1177-A, will be considered by the Committee on December 18, 2013, and upon successful vote of the Committee, Proposed Intro. 1177-A will be submitted to the Full Council for a vote on December 19, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1177-A:)

Int. No. 1177-A

By Council Members Garodnick, Chin, Koo, Koppell, Gennaro, Van Bramer, Greenfield and Halloran (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to recordkeeping requirements for second-hand dealers and pawnbrokers.

Be it enacted by the Council as follows:

Section 1. Section 20-267 of the administrative code of the city of New York is amended to read as follows:

§ 20-267. Report to the police commissioner. [Every] *Subject to the provisions of section 20-273 of this subchapter, every dealer in second-hand articles, upon being served with a written notice to do so by a member of the police department, shall report to the police commissioner, on blank forms to be furnished by such department, a copy of any of the records required to be kept under section 20-273 of this subchapter, of all goods or articles or any part thereof, purchased, received or sold in the course of his or her business, during the days specified in such notice.*

§ 2. Section 20-273 of the administrative code of the city of New York is amended to read as follows:

§ 20-273 Record of purchase and sales. a. [Every] *Subject to the provisions of subdivisions b and c of this section, every dealer in second-hand articles shall keep a [book in which] written record of transactions that shall be [legibly] legible and written in English. [at] At the time of every purchase and at the time of every sale, every dealer in second-hand articles shall enter in such written record a description of every article so purchased or sold, the number or numbers and any monograms, inscription or other marks of identification that may appear on such article, a description of the articles or pieces comprising old gold, silver, platinum, or other metals, and any monogram, inscription or marks of identification thereon, the name, residence and general description of the person from whom such purchase was made or to whom sold and the day and hour of the purchase or sale.*

b. *In addition to maintaining written records in accordance with subdivision a of this section, every dealer in second-hand articles that deals in the purchase or sale of any second-hand manufactured article composed wholly or in part of gold, silver, platinum, or other precious metals, or deals in the purchase or sale of any old gold, silver, platinum or other precious metals, or deals in the purchase of articles or things comprised of gold, silver, platinum or other precious metals for the purpose of melting or refining, or deals in the purchase or sale of used electrical appliances excluding kitchen appliances, or deals in the purchase or sale of any used electronic equipment, computers or component parts of electronic equipment or computers, shall with respect to such transactions create an electronic record in English, in a manner to be specified by the police commissioner by rule. Such electronic record may include real-time sharing or accessing of such records in an electronic format and/or through use of an internet website designated by the police commissioner. Such electronic record shall be retained for a minimum period of six years from the date of purchase or sale. Such electronic record shall be created by the dealer at the time of each transaction and shall include the following information: (i) date, time, and location of transaction; and (ii) an accurate description of each article purchased or sold, including the type of article, manufacturer, make, model or serial number, inscriptions or distinguishing marks. Such electronic record may include one or more digital photographs reasonably capturing the likeness of the article, provided in a format or in accordance with specifications as provided by rule of the police commissioner in furtherance of the purposes of this subchapter.*

c. *In the case of a dealer in second-hand articles who deals in the purchase or sale of [a] pawnbroker [ticket] tickets or other evidence of [a] pledged [article] articles or [a] the redemption or sale of [a] pledged [article] articles[, there shall be written in such book] and who is not subject to the provisions of section 20-277 of this chapter:*

1. *Every dealer shall at the time of such purchase, sale or redemption, include the following information in the written record kept pursuant to subdivision a of this section:*

[1.] (i) *The name and address of the person who issued such ticket or other evidence;*

[2.] (ii) *The pledge number of such pawn ticket or other evidence;*

[3.] (iii) The name and address of the pledgor as it appears upon such pawn ticket or other evidence;

[4.] (iv) The amount loaned or advanced as it appears on such pawn ticket or other evidence;

[5.] (v) The day and hour of such purchase, sale or redemption, as the case may be;

[6.] (vi) The name, residence and general description of the person from whom or to whom the redeemed article is purchased or sold, as the case may be;

[7.] (vii) The sum paid or received for such pawn ticket or other evidence, or the sum paid or received for the redeemed article or pledge; and

[8.] (viii) Such description of a pledged article as appears on such pawn ticket or other evidence and an accurate description of every redeemed pledged article.

2. Every dealer shall with respect to such transactions also create an electronic record in English, in a manner to be specified by the police commissioner by rule. Such electronic record may include real-time sharing or accessing of such records in an electronic format and/or through use of an internet website designated by the police commissioner. Such electronic record shall be retained for a minimum period of six years from the date of purchase or sale. Such electronic record shall be created by the dealer at the time of purchase, sale or redemption and shall include the information specified in subparagraphs (i), (ii), (iv), (v), (vii) and (viii) of paragraph one of this subdivision and one or more digital photographs reasonably capturing the likeness of the article, provided in a format or in accordance with specifications as provided by rule of the police commissioner in furtherance of the purposes of this subchapter.

[c.] d. In the case of a sale or other disposal of a motor vehicle, motor cycle or motor thereof, the [licensee] dealer in second-hand articles shall, in addition to any other entry required by subdivision a of this section, enter in [a] such permanent record the vehicle identification number of said motor vehicle, motor cycle or motor, the manner in which said motor vehicle, motor cycle or motor was removed from the premises, giving the name, [and] address and date of birth of the person who removes it, [and] the driver's license number of such person and state of issuance if such person possessed a driver's license, the motor vehicle registration number of any vehicle used to tow, remove or transport such motor vehicle, motor cycle or motor, and the destination to which the motor vehicle, motor cycle or motor is being removed.

[d. Such book, at all reasonable times,] e. The records required by this section, including any electronic records pursuant to subdivisions b and c, shall be open to the inspection of any police officer, [to] the commissioner or any departmental inspector, [or any] judge of the criminal court, or [any] person duly authorized in writing for such purposes by the commissioner or by any judge of the criminal court, who shall exhibit such written authority to the dealer. Such records shall also be open to the inspection of any official or other person identified in, or duly authorized in writing pursuant to, any other applicable state or local law.

f. A dealer in second-hand articles subject to the provisions of subdivisions b or c of this section shall acquire and maintain in good working order the electronic equipment necessary to create and maintain the electronic records required by this section, including but not limited to a computer with internet connection and a digital camera utilizing a file format designated by the police commissioner.

g. Nothing in this section shall be construed to affect or supersede any recordkeeping requirement imposed by or pursuant to any other applicable federal, state or local law.

§ 3. Section 20-277 of the administrative code of the city of New York is amended to read as follows:

§ 20-277 Reports. a. Every pawnbroker shall create an electronic record in English, in a manner to be specified by the police commissioner by rule. Such electronic record may include real-time sharing or accessing of such records in an electronic format and/or through use of an internet website designated by the police commissioner. Such electronic record shall be created by the dealer at the time of every transaction in which goods, articles and things, or any part thereof, are pawned, pledged or redeemed in the course of business of such pawnbroker. Such electronic record shall be retained for a minimum period of six years from the date of such transaction. Such electronic record shall include the following information:

1. The date, time, location and type of transaction;

2. An accurate description of each article pawned or pledged, including type of article, manufacturer, make, model or serial number, inscriptions or distinguishing marks, and at the discretion of the police commissioner and in furtherance of the purposes of this subchapter, one or more digital photographs reasonably capturing the likeness of the article;

3. An accurate description of each article purchased or sold, including type of article, manufacturer, make, model or serial number, inscriptions or distinguishing marks, and at the discretion of the police commissioner and in furtherance of the purposes of this subchapter one or more digital photographs reasonably capturing the likeness of the article.

b. The police commissioner, at such times as he or she may prescribe in a written notice served upon any pawnbroker by a member of the police department, may in addition to the electronic record required by subdivision a of this section require such pawnbroker to report to such commissioner, upon blank forms to be furnished by the police department, a description of all goods, articles or things, or any part thereof, pawned or pledged in the course of business of such pawnbroker during the days specified in such notice, stating the numbers of the pawn tickets issued therefor, the amounts loaned thereon, and such identifying marks as may be on the goods pawned. If such notice from the police commissioner so prescribes, such pawnbroker,

until he or she is notified to discontinue so doing, shall keep and furnish on such forms, [a general description as to sex, color and apparent age of every person depositing such pledges] identifying information regarding any pledgors or persons redeeming any articles pledged or pawned, including name, address, phone number, date of birth, sex, and race or ethnicity.

c. Pawnbrokers shall acquire and maintain in good working order the electronic equipment necessary to create and maintain the electronic records required by subdivision a of this section, including but not limited to a computer with internet connection and a digital camera utilizing a file format designated by the police commissioner.

d. Records required to be kept by pawnbrokers pursuant to this section shall be open to the inspection of the state attorney general, the state comptroller, any police officer, the commissioner, any departmental inspector, any judge of the criminal court, any person duly authorized in writing for such purposes by the commissioner or by any judge of the criminal court, who shall exhibit such written authority to the pawnbroker, or any other governmental officer or employee authorized by the state or local law. Such records shall also be open to the inspection of any official or other person identified in, or duly authorized in writing pursuant to, section forty-five of the general business law or any other applicable state or local law.

e. Nothing in this section shall be construed to affect or supersede any recordkeeping requirement imposed by or pursuant to any other applicable federal, state or local law.

f. In addition to any other applicable penalty or sanction, any person who violates any of the provisions of this section or rules promulgated thereunder shall be subject to the penalties set forth in subdivision a of section 20-106 of this chapter.

§ 4. This local law shall take effect 120 days after it shall have been enacted into law; provided that the commissioner and the commissioner of the police department may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, promulgating rules.

DANIEL R. GARODNICK, Chairperson; CHARLES BARRON, G. OLIVER KOPPELL, KAREN KOSLOWITZ; Committee on Consumer Affairs, December 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 Contracts

Report for Int. No. 193-A

Report of the Committee on Contracts in favor of approving and adopting, as amended, a Local Law to amend the New York city charter to require notification to the council of emergency procurements.

The Committee on Contracts, to which the annexed amended proposed local law was referred on April 29, 2010 (Minutes, page 1507), respectfully

REPORTS:

Introduction

On December 17, 2013, the Committee on Contracts (the Committee), chaired by Council Member Darlene Mealy, will meet to vote on Proposed Int. No. 193-A, a bill that would require the City to report to the Council regarding purchases made via emergency procurement. The Committee considered a prior version of the bill at a hearing on January 28, 2013.

Background

The New York City Charter permits emergency procurement¹ “in the case of an unforeseen danger to life, safety, property or a necessary service.” Drawing on this provision, the Mayor’s Office of Contracts Services (MOCS) defines emergency procurement as the “method of procurement used to obtain goods and services very quickly, in many instances without competition, when an agency must address threats to public health or safety, or provide a necessary service on an emergency basis.”²

Emergency procurements require prior approval from the City’s Corporation Counsel and Comptroller.³ Agencies that undertake emergency procurement must place a written determination of the basis for the emergency and the selection of the contractor in the agency contract file. Agencies must then include that written determination or a summary thereof when publishing the notice of contract award in the City Record.⁴

Impact of Emergency Procurement

Speed is imperative when procuring emergency goods and services. Accordingly, emergency procurement is subject to a streamlined review process that excises many of the procedural requirements that fetter other methods of procurement. While the Charter requires emergency procurements to be made with “such competition as is practicable under the circumstances,”⁵ as the MOCS definition suggests, emergency procurements often occur with little or no competition. Further, in addition to exemption from competitive bidding requirements, emergency procurements are largely exempt from the requirements of local laws. For example, emergency procurement has been explicitly carved out of recently enacted legislation pertaining to minority and women-owned business enterprises, outsourcing, local food, and packaging reduction.⁶

Even with vastly increased spending on emergency procurement in FY2013 as a result of Hurricane Sandy—\$690.6 million versus \$59.2 million in FY2012—emergency procurement represents a relatively small fraction of the overall dollar value of Citywide contracts (4.2% of \$16.5 billion).⁷ However, in light of the decreased competition and circumvention of local laws attending emergency procurement, the use of emergency procurement merits heightened scrutiny.

Oversight of Emergency Procurement

On January 28, 2013, the Committee held a hearing to both consider Int. No. 193 and explore the City’s use of emergency procurement (the January hearing).⁸ Specifically, the Committee sought to examine the processes by which the City implements emergency procurement and the steps, if any, the Administration takes to limit the utilization of this method.⁹

During this hearing, MOCS emphasized that it played no role in the approval of emergency contracts.¹⁰ When asked what, if any, guidance it provides agencies regarding the standard for what constitutes an emergency, MOCS replied that it provided no such guidance, noting that the Comptroller and the Law Department make the decision to approve the contracts, and thus, ultimately the determination of what constitutes an “unforeseen danger to life, safety, property or a necessary service.”¹¹ MOCS suggested that its role is to assist with the mechanics of executing a contracting plan, not to manage agencies’ needs.¹²

MOCS does not routinely review emergency contracts of agencies once they are registered.¹³ When asked if it could play a greater role in reviewing emergency procurements to determine if agencies might better plan for their contracting needs, MOCS noted only that it would participate if the City assembled a team to consider how to better plan for an emergency (such as Hurricane Sandy).¹⁴

On March 4, 2013, the Committee held a joint oversight hearing with the Committee on Finance on the preliminary budget for FY2014 (the March hearing). When asked whether the Office of Management and Budget (OMB) reviews agencies’ emergency contracts, OMB described its general review of contracts to ensure that funding is available, but made no distinction between emergency contracts and contracts awarded in the normal course.¹⁵ Further, the OMB director was not aware of whether emergency contracts were utilized by agencies under circumstances that were not “dire”¹⁶ and questioned whether emergency procurements (which, as noted above, do not require competition) generally cost more.¹⁷

OMB went on to assert the inefficiencies that might exist by planning for certain emergencies, citing as an example the potential for wasted money if the Department of Sanitation contracted in advance for snow removal in the event that it did not snow.¹⁸ (Note, however, that agencies can plan for just such circumstances by entering into arrangements where contracts are competitively bid and prices and vendors are set ahead of time, but payments are made only as the need for services arises. Indeed, this way of planning to stave off the additional costs and burdens of emergencies was expressly highlighted by the Administration during the oversight hearing following the blizzard of 2010.)¹⁹

On October 31, 2013, the Committee held an oversight hearing to review the Department of Homeless Services’ (DHS) use of emergency procurement (the October hearing).²⁰ During both the January and the March hearings, specific questions arose regarding DHS’ use of emergency procurement.²¹ Within the larger inquiry of whether City agencies were planning for their needs sufficiently so as to avoid resorting to emergency procurement, the question of DHS’ use was of particular interest, as the problem of homelessness in New York City has seemed, unfortunately, persistent, increasing, and—perhaps most importantly in the context of contract management—foreseeable.

During the January hearing, the Comptroller submitted written testimony challenging DHS’ use of emergency procurement. Although the Comptroller approved DHS’ emergency requests to procure shelter beds, he questioned whether the emergency procurement method was being abused by DHS, given the number and value of contracts registered. The Comptroller attached to his testimony an August 2012 letter sent by his office to DHS recommending that the agency “base its shelter siting and service allocations on the City’s long-range policies and strategies to allow the City to more efficiently plan and budget for the provision of shelters rather than relying on emergency procurements.”²²

In preparation for the October hearing, Committee staff obtained copies of DHS’ most recent written requests to the Comptroller and the Law Department for approval for emergency procurement.²³ In these requests, DHS offered different justifications for seeking emergency relief, some of which call into question the agency’s contingency planning.²⁴ During the October hearing, Council members challenged DHS regarding such justifications.²⁵

Through this series of oversight hearings, the Committee learned that emergency procurement may be vulnerable to misuse, as neither MOCS nor OMB systematically reviews agencies’ use of the method to ensure that it is utilized appropriately; that is, that agencies use the method only when there is a genuine emergency, not merely because they fail to adequately plan for their contract needs. In the absence of such review by the Administration, Proposed Int. No. 193-A would allow the Council to monitor emergency procurement and consider whether agencies might better anticipate, plan, and manage their contract needs.

Proposed Int. No. 193-A

Proposed Int. No. 193-A would amend the Charter to provide notification to the Council when agencies procure emergency goods and services. Agencies would be required to provide the Council with the full written determination of the basis for the emergency and the selected vendor within 15 days after contract award.

The bill includes no provisions for the Council to delay or obstruct the procurement; rather, with the detailed information concerning the basis for the emergency and vendor selection, the bill would improve the Council’s ability to exercise its oversight function with respect to the use of this procurement method.

The bill would be effective 45 days after its enactment into law.

¹ The term “emergency procurement” can refer both to the method of procurement and to the goods and/or services procured.

² New York City Mayor’s Office of Contract Services, *Agency Procurement Indicators, Fiscal Year 2012*, at 93, available at <http://www.nyc.gov/html/mocs/downloads/pdf/Fiscal2012ProcurementIndicators.pdf>.

³ See New York City Charter §315.

⁴ See New York City Charter §§315, 325.

⁵ See New York City Charter §315.

⁶ See Local Law 1 of 2013, Local Law 63 of 2011, Local Law 50 of 2011, and Local Law 51 of 2011, respectively.

⁷ See New York City Mayor’s Office of Contract Services, *Agency Procurement Indicators, Fiscal Year 2012*, at 10, available at

<http://www.nyc.gov/html/mocs/downloads/pdf/Fiscal2012ProcurementIndicators.pdf>; New York City Mayor’s Office of Contract Services, *Agency Procurement Indicators, Fiscal Year 2013*, at 13, available at http://www.nyc.gov/html/mocs/downloads/pdf/Fiscal%202013%20Procurement%20Indicators%20complete%20text%2010%2021_for%20web.pdf.

⁸ See Committee Report, Oversight: Exploring the City’s Use of Emergency Procurement, Jan. 28, 2013, Committee on Contracts.

⁹ *Id.*

¹⁰ See Transcript, Oversight: Exploring the City’s Use of Emergency Procurement, Jan. 28, 2013, Committee on Contracts, at 21, 28-29.

¹¹ *Id.* at 29-31.

¹² *Id.* at 82.

¹³ *Id.* at 87-88.

¹⁴ *Id.*

¹⁵ See Transcript, New York City Council Fiscal Year 2014 Preliminary Budget, Mayor’s FY ’13 Preliminary Management Report and Agency Oversight Hearings, Mar. 4, 2013, Committees on Finance and Contracts, at 144-146.

¹⁶ *Id.* at 129-130.

¹⁷ *Id.* at 128-129.

¹⁸ *Id.* at 148-149.

¹⁹ See Transcript, Oversight – The December Blizzard of 2010: Evaluating the City’s Response, Jan. 10, 2011, Committees on Sanitation and Solid Waste Management, Public Safety, Fire and Criminal Justice Services, and Oversight and Investigations, at 81.

²⁰ See Committee Report, Oversight – The Department of Homeless Services’ Use of Emergency Procurement, Oct. 31, 2013, Committee on Contracts.

²¹ See Transcript, Oversight: Exploring the City’s Use of Emergency Procurement, Jan. 28, 2013, Committee on Contracts, at 24-27, 49-56; Transcript, New York City Council Fiscal Year 2014 Preliminary Budget, Mayor’s FY ’13 Preliminary Management Report and Agency Oversight Hearings, Mar. 4, 2013, Committees on Finance and Contracts, at 128-130, 141-142.

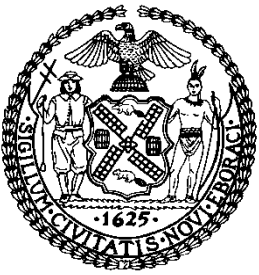
²² Written Testimony of John C. Liu, New York City Comptroller, Oversight: Exploring the City’s Use of Emergency Procurement, Jan. 28, 2013, Committee on Contracts.

²³ *Id.*

²⁴ In justifying its use of emergency procurement, DHS has cited to the fact that demand for single adult shelters has repeatedly exceeded its projections, breaking historically cyclical patterns whereby demand rises in the fall and winter, and falls in the spring and summer, presumably because more people seek indoor shelter during the colder months. This reason was cited both in 2010, and more recently in the summer of 2012. Yet, DHS shelter census data (<http://www.nyc.gov/html/dhs/downloads/pdf/dailyreport.pdf>) shows that over the last six fiscal years, this trend has only occurred in FY2011, a year when overall demand shot up significantly compared to the year before. Even then, the difference between the peak winter month, which was February, and the trough in the summer, July, was only eight percentage points. And the overwhelming trend since FY2009 has been for demand to grow every year over the year before. This seems unsurprising given that historically, homelessness appears closely tied to the long-term unemployment rate, which following the 2008 recession, is still at a 30 year high. (Based on data compiled by Committee staff from the Department of Labor). This draws DHS’ reasoning as to why it needed to use emergency procurement, namely because it expected demand to decrease when instead it increased, into doubt. Questions also arise regarding its rationale in May 2012, when it cited the unexpected decision in a court case which allowed the City to completely cease operation of its Advantage program—a rental assistance program for families transitioning out of shelters—following State cuts. Given that the case had been ongoing for approximately one year, and it was the City itself that was seeking to end the program for participants who were already enrolled, it would seem that DHS should have been well informed about the progress of the case, and making contingency plans for any spillover effects should the City be successful in achieving its objectives.

²⁵ See, e.g., Transcript, Oversight – The Department of Homeless Services’ Use of Emergency Procurement, Oct. 31, 2013, Committee on Contracts, at 39-45.

(The following is the text of the Fiscal Impact Statement for Int. No. 193-A:)



THE COUNCIL OF THE CITY OF
NEW YORK
FINANCE DIVISION

PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY
DIRECTOR

FISCAL IMPACT STATEMENT

INTRO. NO: 193-A

COMMITTEE:
Contracts

TITLE: To amend the New York city charter to require notification to the council of emergency procurements.

SPONSOR(S): Council Members Chin, Comrie, Fidler, Recchia, Williams, Rodriguez, Nelson and Mealy.

SUMMARY OF LEGISLATION: Proposed Intro. No. 193-A would require that when a city agency makes an emergency procurement the written determination of the basis for the emergency and the selection of the contractor be submitted to the council no later than fifteen days following contract award.

EFFECTIVE DATE: 45 days following enactment.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: FY 14

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: Intro. No. 193-A would not impact revenues.

IMPACT ON EXPENDITURES: Intro. No. 193-A would not impact expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: Finance Division

ESTIMATE PREPARED BY: Regina Poreda Ryan, Deputy Director

LEGISLATIVE HISTORY: Intro. No. 193 was introduced by the Council on April 29, 2010 and assigned to the Committee on Contracts. The Committee held a hearing on January 28, 2013 and laid the bill over. The Committee will consider the bill as amended, Proposed Intro. No. 193-A, on December 17, 2013 and upon a successful vote, the bill would be submitted to the full Council for a vote.

DATE SUBMITTED TO THE COUNCIL: December 17, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 193-A:)

Int. No. 193-A

By Council Members Chin, Comrie, Fidler, Recchia, Williams, Rodriguez, Nelson, Mealy, Gennaro, Jackson, Mark-Viverito, Koppell and Van Bramer.

A Local Law to amend the New York city charter to require notification to the council of emergency procurements.

Be it enacted by the Council as follows:

Section 1. Section 315 of the New York city charter, as amended by local law number 3 for the year 1997, is amended to read as follows:

§315. Emergency Procurement. Notwithstanding the provisions of section three hundred twelve of this chapter, in the case of unforeseen danger to life, safety, property or a necessary service, an emergency procurement may be made with the prior approval of the comptroller and corporation counsel, provided that such procurement shall be made with such competition as is practicable under the circumstances, consistent with the provisions of section three hundred seventeen of this chapter. A written determination of the basis for the emergency and the selection of the contractor shall be placed in the agency contract file, *and shall further be*

submitted to the council no later than fifteen days following contract award, and the determination or summary of such determination shall be included in the notice of the award of contract published pursuant to section three hundred twenty-five of this chapter.

§2. This local law shall take effect 45 days after its enactment into law.

DARLENE MEALY, Chairperson; MICHAEL C. NELSON, ROBERT JACKSON, LETITIA JAMES, MELISSA MARK-VIVERITO; Committee on Contracts, December 17, 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 Environmental Protection

Report for Int. No. 867-A

Report of the Committee on Environmental Protection 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 the creation of a voluntary master environmental hazard remediation technician registration program.

The Committee on Environmental Protection, to which the annexed amended proposed local law was referred on May 31, 2012 (Minutes, page 1774), respectfully

REPORTS:

Introduction

On December 17, 2013, the Environmental Protection Committee, chaired by Council Member James Gennaro, will consider on Proposed Int. No. 867-A which would amend the Administrative Code of the City of New York to create a voluntary master environmental hazard remediation technician registration program. An initial hearing on this item was held on December 9, 2013 during which testimony was received from the Department of Environmental Protection (DEP or Department), the Department of Health and Mental Hygiene (DOHMH), the Real Estate Board of New York, the Environmental Contractors Association, the Council of Cooperatives and Condominiums, the Mason Tenders and the New York State Association for Affordable Housing.

Background

Poor indoor air quality has been linked to an increased prevalence of a variety of respiratory diseases.¹ For example, Americans spend up to 90 percent of their time indoors,² and indoor allergens and irritants can play a significant role in triggering asthma attacks and other respiratory problems.³ In fact, nationwide asthma prevalence increased from 7.3 percent in 2001 to 8.4 percent in 2010.⁴ In 2009, 13 percent of New York City children 12 and under—about 177,000—had at some point in their lives been diagnosed with asthma,⁵ and more than one in eight of these children were exposed to asthma triggers in the home⁶ Other respiratory conditions, such as fungal infections, sinusitis and allergic rhinitis also have been linked to poor indoor air quality.⁷

Major adverse environmental events such as flooding or fires can significantly decrease indoor air quality and have negative health impacts on building occupants after waters have receded and fires have been extinguished.⁸ Water damage after floods may increase the likelihood of mold contamination⁹ and exposure to pathogens and hazardous non-biological contaminants such as pesticides and heavy metals.¹⁰ Likewise, residual fire damage can increase exposure to soot particles, which have been linked to heart attacks, strokes, bronchitis and asthma, among other conditions, due to their microscopic size and ability to penetrate deeply into the lungs.¹¹

Ineffective remediation of such environmental hazards can lead to an increase in indoor pollutants by failing to properly address structural damage resulting from fire, flooding or other events. Thus, ineffective remediation may give victims of environmental hazards the false sense that the dangers arising from those hazards have been addressed, while failing to actually decrease those victims' exposure to potentially harmful conditions. The proposed legislation seeks to create a voluntary registration program for master environmental hazard remediation technicians that would require applicants to complete a uniform course of training in various aspects of environmental hazard remediation.

Summary of Proposed Int. No. 867-A

Proposed Int. No. 867-A would create a voluntary registration program for master environmental hazard remediation technicians. To be eligible to register, an

applicant would be required to complete a course of training involving classes in safety and remediation of various environmental hazards through a training provider approved by the Department. The bill would impose a \$1,000 minimum fine, per violation, on any person who holds himself or herself out as a master environmental hazard remediation technician but who has not registered with the Department as such. The bill would also authorize the Commissioner of Environmental Protection (“Commissioner”) to set registration and renewal fees; to revoke registrations for negligence, incompetence or legal violations; and to update the courses required for registration in response to developments in the field.

Proposed Int. No. 867-A

Section one of Proposed Int. No. 867-A would amend Title 24 of the Administrative Code of the City of New York (“the Code”) by adding a new Chapter 10, comprising four sections, 24-1000 through 24-1003.

Section 24-1000 would set forth the City’s declaration of policy and express the need for the proposed bill.

Section 24-1001 would define the terms “certificate of completion,” “department approved training provider,” “environmental hazard remediation,” “master environmental hazard remediation technician identification” and “master environmental hazard remediation technician” for purposes of the proposed legislation.

Section 24-1002 would create a master environmental hazard remediation technician registration program.

Subdivision (a) would set forth the minimum requirements for program applicants. Paragraph (1) would require an applicant to be eighteen years or older. Paragraph (2) would require an applicant to have completed various remediation courses through a training provider approved by DEP. Paragraph (3) would require an applicant to also hold and maintain a license or certification in asbestos and lead training from the New York State Department of Labor or the Environmental Protection Agency, respectively. Paragraph (4) would require that an applicant present valid photo identification. Paragraph (5) would require that an applicant pay fees as provided by rule.

Subdivision (b) would provide that a master environmental hazard remediation technician registration would expire four years from the date of issuance or a different date if set by the Commissioner to distribute expiration dates evenly over the course of a year.

Subdivision (c) would make it unlawful for a person to hold himself or herself out as a master environmental hazard remediation technician without being registered by the Department.

Subdivision (d) would require all applications to be made in the form as well as include the information specified by the Commissioner and that all information in the application correct and current.

Subdivision (e) would require that applications for renewal of registration be accompanied by the renewal fee and any additional information specified by the Commissioner by rule.

Subdivision (f) would authorize the Commissioner to set the registration and renewal of registration fee.

Subdivision (g) would, after notice and opportunity to be heard, authorize the Commissioner to suspend or revoke any registration upon a finding for fraudulent dealings, negligence, incompetence or failure to comply with the Code or any order, rule or requirement lawfully made by the Commissioner.

Subdivision (h) would authorize the Department in consultation with the Department of Health and Mental Hygiene to periodically review the trainings listed in paragraph 2 of subdivision a of this section to determine if they have become outmoded or superseded. Where new trainings in hazardous environmental remediation become available, the Department after consultation with DOHMH, is further authorized, by rule, to amend or supplement such list.

Subdivision (i) would authorize the Commissioner to audit training programs offered by approved training providers to ensure that they meet Department standards.

Section 24-1003 of the proposed bill would provide that a person or entity that violates any provision of the proposed chapter or any related regulation or order would be subject to a fine of at least \$1,000, returnable to the Environmental Control Board.

Section two of Proposed Int. No. 867-A provides that the law would take effect 180 days after enactment, except that the Commissioner of Environmental Protection would be required to promulgate any rules and take any other measures necessary for its implementation before the effective date.

Changes to Proposed Int. No. 867-A from its initial hearing:

- Technical changes were made throughout the bill for the purposes of clarity and to reorganize text.
- The list of required trainings was revised to exclude training on the New York City Department of Health guidelines on assessment and remediation of fungi in indoor environments as mold remediation is covered in another required course.

- The bill was revised to include the Department of Health and Mental Hygiene as an agency authorized, working with DEP, to review required training subjects referenced in the bill and to amend if necessary, by rule, the trainings required.

¹ United States Environmental Protection Agency, *An Introduction to Indoor Air Quality (IAQ)*, available at <http://www.epa.gov/iaq/ia-intro.html> (last accessed Dec. 6, 2013).

² United States Environmental Protection Agency, *Asthma Triggers: Gain Control*, available at <http://www.epa.gov/asthma/triggers.html> (last accessed Dec. 6, 2013).

³ United States Environmental Protection Agency, *An Introduction to Indoor Air Quality (IAQ)*, available at <http://www.epa.gov/iaq/ia-intro.html> (last accessed Dec. 6, 2013).

⁴ Lara J.Akinbami et al., *Trends in Asthma Prevalence, Health Care Use, and Mortality in the United States, 2001-2010*, NCHS Data Brief No. 94, May 2012, available at <http://www.cdc.gov/nchs/data/databriefs/db94.pdf> (last accessed Dec. 6, 2013).

⁵ NYC Department of Health and Mental Hygiene, *Preventing and Treating Childhood Asthma in NYC*, NYC Vital Signs, July 2012, Vol. 11, No. 4, available at <http://www.nyc.gov/html/doh/downloads/pdf/survey/survey-2012childasthma.pdf> (last accessed Dec. 6, 2013).

⁶ NYC Health Dep’t, *Preventing and Treating Childhood Asthma in NYC*, NYC Vital Signs, July 2012, Vol. 11, No. 4, available at <http://www.nyc.gov/html/doh/downloads/pdf/survey/survey-2012childasthma.pdf> (last accessed Dec. 6, 2013).

⁷ Mary Brandt et al., *Mold Prevention Strategies and Possible Health Effects in the Aftermath of Hurricanes and Major Floods*, CDC Morbidity and Mortality Weekly Report, Jun. 9, 2006, available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5508a1.htm> (last accessed Dec. 6, 2013).

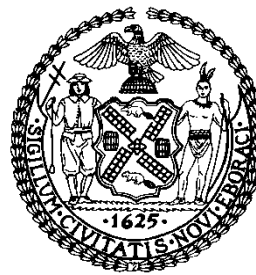
⁸ See Mary Brandt et al., *Mold Prevention Strategies and Possible Health Effects in the Aftermath of Hurricanes and Major Floods*, CDC Morbidity and Mortality Weekly Report, Jun. 9, 2006, available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5508a1.htm> (last accessed Dec. 6, 2013); U.S. Environmental Protection Agency, *EPA Proposes Clean Air Standards for Harmful Soot Pollution*, Press Release, Jun. 15, 2012, available at <http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/f51c2fdeda736ea285257a1e0050c45f?opendocument> (last accessed Dec. 6, 2013).

⁹ Mary Brandt et al., *Mold Prevention Strategies and Possible Health Effects in the Aftermath of Hurricanes and Major Floods*, CDC Morbidity and Mortality Weekly Report, Jun. 9, 2006, available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5508a1.htm> (last accessed Dec. 6, 2013).

¹⁰ U.S. Environmental Protection Agency, *Flood-Related Cleaning*, Draft Report, Jan. 2009, at 5.

¹¹ U.S. Environmental Protection Agency, *EPA Proposes Clean Air Standards for Harmful Soot Pollution*, Press Release, Jun. 15, 2012, available at <http://yosemite.epa.gov/opa/admpress.nsf/d0cf6618525a9efb85257359003fb69d/f51c2fdeda736ea285257a1e0050c45f?opendocument> (last accessed Dec. 6, 2013).

(The following is the text of the Fiscal Impact Statement for Int. No. 867-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: 867-A
COMMITTEE:
Committee on
Environmental
Protection

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the creation of a voluntary master environmental hazard remediation technician registration program.

SPONSOR(S): Council Members Council Members Gennaro, Brewer, Fidler, Gonzalez, James, Palma, Rose, Williams, Jackson and Van Bramer.

SUMMARY OF LEGISLATION: Proposed Int. No. 867-A will require the Department of Environmental Protection (DEP) to administer a voluntary master environmental hazard remediation technician registration program. In order to qualify for registration a person has to demonstrate appropriate training, in certain environmental fields, which was conducted by approved training providers. DEP is authorized to charge suitable fees to administer the program. The bill would also make it unlawful for any person to hold himself or herself out as a master environmental hazard remediation technician without being registered with the Department-the penalties would be \$1,000 per violation.

EFFECTIVE DATE: This local law would take effect 6 months 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: Any fee revenue generated from this legislation will be used only to recoup costs related to the administration of this program.

IMPACT ON EXPENDITURES: Any increase in costs will be offset by the fee associated with this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: NYC Department of Environmental Protection

ESTIMATE PREPARED BY: Nathan Toth, Deputy Director

ESTIMATED REVIEWED BY: Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: On May 31, 2012, Intro. 867 was introduced by the Council and referred to the Committee on Environmental Protection. On December 9, 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. 867-A, on December 17, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1160-A on December 19, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 867-A:)

Int. No. 867-A

By Council Members Gennaro, Brewer, Fidler, Gonzalez, James, Palma, Rose, Williams, Jackson, Van Bramer, Koppell, Levin, and Greenfield.

A Local Law to amend the administrative code of the city of New York, in relation to the creation of a voluntary master environmental hazard remediation technician registration program.

Be it enacted by the Council as follows:

Section 1. Title 24 of the administrative code of the city of New York is amended by adding a new chapter 10 to read as follows:

Chapter 10
Environmental Hazard Remediation

§ 24-1000. Declaration of Policy. It is hereby declared that asthma and other respiratory conditions have increased significantly in the United States and that evidence suggests that indoor environments, where most people spend a majority of their time, play an important role in predisposing vulnerable populations to asthma and other respiratory diseases. The National Academy of Sciences found that there was sufficient evidence to establish a causal link between a number of respiratory conditions and the presence of asthma triggers, irritants, pathogens, fungi and mold, including *stachybotrys chartarum*, soot from severe smoke or fire damage and flood damage, mold or environmental pathogens including bird or bat droppings or potentially infectious materials as defined by 29 CFR 1910, including H1N1, viruses, bacteria, blood borne pathogens, chemical spills, and sewage. Vulnerable populations such as those with profound immune-suppression, obstructive or cavity lung diseases, allergic rhinoconjunctivitis, asthma exacerbated by moldy materials, pneumonitis, are at particular risk. A highly trained workforce with skills across individual hazard and remediation method techniques will help to address multiple and common hazards in a safe manner. Further, in times of crisis, both natural and manmade, profiteers and other unscrupulous persons have historically taken advantage of victims. An approved master environmental hazard remediation technician registration program would result in a uniform standard of training that

would allow the citizens of New York city to have confidence that environmental hazard remediation is done efficiently, effectively and safely.

Therefore, the council finds that it is in the best interests of the city to create a voluntary master environmental hazard remediation technician registration program which would recognize those who are sufficiently trained to hold themselves out as a master environmental hazard remediation technician.

§ 24-1001. Definitions. For purposes of this chapter, the following terms shall have the following meanings:

“Certificate of completion” means any license, certificate, diploma or other department approved documentation indicating that the applicant has satisfactorily completed department approved trainings by a department approved training provider or providers.

“Department approved training provider” means training programs or courses approved by the department covering topics identified in section 24-1002 of this chapter conducted by a registered New York state department of labor apprenticeship program, or by an educational institution or school chartered, licensed, or registered by the New York state education department, or by the institute of inspection, cleaning, and restoration certification, or any other department approved entity. Each program or course shall be presented by an instructor or institution authorized by the respective governing authority to conduct such training.

“Environmental hazard remediation” means the removal, cleaning, sanitizing, treatment or implementation of other preventive actions to eliminate environmental hazards.

“Master environmental hazard remediation technician identification” means a written document issued by the commissioner certifying that a person is registered with the department pursuant to this chapter.

“Master environmental hazard remediation technician” means a person registered with the department upon successfully presenting to the commissioner current documentation of having successfully completed required environmental remediation training programs or courses from a department approved training provider as evidenced from a certificate of completion.

§ 24-1002. Master Environmental Hazard Remediation Technician Registration Program

a. The department shall establish a program to provide for the voluntary registration of persons as master environmental hazard remediation technicians. An applicant for such registration shall meet the following qualifications:

(1) Be eighteen years of age or older;

(2) Have satisfactorily completed all of the following programs or courses through a department approved provider: occupational safety and health administration safety standards for the construction or general industry (minimum 10 hours); New York state asbestos handler (minimum 32 hours); environmental protection agency lead worker (minimum 16 hours) (lead renovation, repair and painting course shall not be sufficient); hazardous waste operations (minimum 40 hours); microbial remediation (minimum 24 hours); water damage restoration (minimum 20 hours) or institute of inspection cleaning and restoration certification water damage restoration certification (minimum 19 hours); fire damage restoration (minimum 16 hours) or institute of inspection cleaning and restoration certification fire and smoke restoration technician certification (minimum 14 hours); polychlorinated biphenyls awareness (minimum 4 hours); bloodborne pathogens (minimum 4 hours) and infection control risk assessment (minimum 4 hours). All course lengths are inclusive of breaks with the exception of the occupational safety and health administration 10 hour course.

(3) All licenses or certifications associated with asbestos handling and lead training must remain current. No master environmental hazard remediation technician registration will be considered valid if the holder does not possess at all times a valid license from the New York state department of labor for asbestos handling and an environmental protection agency certification in lead;

(4) Present a valid photo identification; and

(5) Present payment of the appropriate fees as provided by rule.

b. A master environmental hazard remediation technician registration shall expire four years from the date of issuance or such other date as determined by the commissioner by rule so as to distribute the expiration dates of the registrations evenly over the course of a year.

c. It shall be unlawful for any person to hold himself or herself out as a master environmental hazard remediation technician without being registered with the department pursuant to this chapter.

d. Each application for the master environmental hazard remediation technician registration program shall be made in such form and shall be accompanied by such information as the commissioner may prescribe by rule. It shall be a condition of the registration that the information in the application is kept correct and current by the applicant.

e. Applications for renewal of a master environmental hazard remediation technician registration shall be accompanied by the renewal fee and such additional information as the commissioner may require by rule.

f. The commissioner may charge a fee for registration and renewal of registration as set forth in department rules.

g. The commissioner, after providing notice and an opportunity to be heard, may suspend or revoke any master environmental hazard remediation technician registration issued under this chapter upon a finding by the department or other governmental agencies of fraudulent dealings, negligence or incompetence, or failure to comply with this code or any order, rule, or requirement lawfully made by the commissioner.

h. The department and the department of health and mental hygiene shall periodically review the trainings listed in paragraph 2 of subdivision a of this section to determine if they have become outmoded or superseded. Should new trainings in hazardous environmental remediation become available, the department after consultation with the department of health and mental hygiene, may by rule amend or supplement such list.

i. The commissioner may audit training programs provided by approved training providers to ensure that such training programs meet the standards of the department.

§24-1003. *Enforcement.* Any person or other entity that violates any provision of this chapter or any regulation or order of the commissioner issued pursuant thereto shall be subject to a civil fine of not less than one thousand dollars per violation returnable to the environmental control board.

§2. This local law shall take effect one hundred eighty days after enactment, except that the commissioner of environmental protection shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

JAMES F. GENNARO, Chairperson; G. OLIVER KOPPELL, BRADFORD S. LANDER, STEPHEN T. LEVIN; DONOVAN J. RICHARDS; Committee on Environmental Protection, December 17, 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. 1160-A

Report of the Committee on Environmental Protection 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 reducing the emissions of pollutants from heavy duty trade waste hauling vehicles.

The Committee on Environmental Protection, to which the annexed amended proposed local law was referred on September 24, 2013 (Minutes, page 3631), respectfully

REPORTS:

Introduction

On December 17, 2013, the Environmental Protection Committee, chaired by Council Member James Gennaro, will hear and vote on Proposed Int. No. 1060-A.

Background

The commercial refuse trucks in the License and CL2 fleets use heavy-duty diesel engines. Diesel exhaust includes substances that have been proven to be detrimental to both human health and the environment, including nitrogen oxides (NO_x) and particulate matter (PM). NO_x is a direct respiratory irritant and also combines in the atmosphere with un-burned hydrocarbons, in the presence of sunlight, to form ground-level ozone or “smog”.

Particulate matter particles formed by combustion of fossil fuels, including diesel fuel, are a complex mixture of elemental, or “black”, carbon, unburned or partially combusted fuel, sulfate from fuel sulfur, and lubricant products. Diesel PM includes more than 40 substances considered by the United States Environmental Protection Agency (EPA) to be air toxins. Most particles emitted by diesel engines are small enough to be inhaled and lodged deep into the lungs²; they also can enter the bloodstream. Based on numerous air-quality studies EPA has determined that exposure to high levels of diesel PM causes cardiovascular harm and pre-mature death, is likely to cause respiratory harm, and may cause cancer.

New York City’s air quality consistently violates the federal Environmental Protection Agency’s (EPA) National Ambient Air Quality Standards for criteria pollutants, and the city is designated a nonattainment area for ozone (O₃) and fine particulate matter (PM_{2.5}) pursuant to the Clean Air Act.¹ Other pollutants such as nitrous oxides (NO_x), sulfur dioxides (SO₂), and nickel also remain at unsafe concentrations in our air.² These pollutants are conclusively linked with a variety of health problems. Fine particulate matter is small enough to become embedded deep within the lungs, and short-term exposure can exacerbate heart and respiratory problems such as asthma.³ Long-term exposure to fine particulate matter has been linked to reduced lung function (SO₂), chronic bronchitis, cardiovascular disease, and premature death.⁴

Diesel PM also contributes to global warming. Approximately 80% of the mass of particulate pollution emitted by diesel engines is black carbon –also known as soot. Black carbon in the air warms the atmosphere directly by absorbing sunlight and radiating heat. Black carbon deposited on ice and snow reduces their reflectivity and accelerates melting, which indirectly contributes to further warming.

In the short term (20 years) black carbon is estimated to be as much as 2,000 times more potent as a warming agent than an equivalent amount of the greenhouse

gas carbon dioxide (CO₂). Black carbon is therefore a significant contributor to the global warming that is resulting in climate change. Some scientists estimate that over the last 150 years the climate warming resulting from black carbon in the atmosphere has caused 25-50 percent of the percent of the warming resulting from CO₂ emissions.

Summary of Proposed Int. No. 1160-A

Section 1 of Proposed Int. No. 1160-A amends Section 16-509 of the Administrative Code of the City of New York to add a new subdivision e which would authorize the Business Integrity Commission (BIC) to refuse to issue a license or registration to an applicant that has failed to demonstrate to the satisfaction of BIC that the applicant will meet the requirements of this local law, or any rule promulgated pursuant thereto, in the performance of such license or registration, unless such applicant has been issued a waiver for financial hardship, or has submitted an application for such waiver.

Section 2 of the bill amends subdivision a of section 16-513 of the Administrative Code of the City of New York to allow the suspension or revocation of a license or registration whenever the licensee or registrant has been found by BIC or a court or administrative tribunal of competent jurisdiction to be in violation of the provisions of this local law, or any rule promulgated pursuant thereto.

Section 3 of this bill creates a new section 24-163.11 in the Administrative Code of the City of New York, which mandates the use of an EPA certified 2007 or later engine, or the best available retrofit technology, as determined by the Commissioner of Environmental Protection, in heavy duty trade waste hauling vehicles by January 1, 2020. It also provides for waivers where such retrofit would create financial hardship in the licensee or registrant. However all waivers issued pursuant to this subdivision would expire by January 1, 2025. Violation of this section carries a civil penalty of \$10,000 per vehicle. An order to correct is issued at the same time as the violation which allows these violations to be corrected without penalty within 60 days from the date of the order. Where such penalty is not corrected within 60 days a separate additional penalty may be imposed of not more than five hundred dollars for each day that the violation is not corrected beyond 60 days from such order.

This local law takes effect immediately upon its enactment.

Changes to Proposed Int. No. 1160-A

- Int. No. 1160 originally amended the entirety of Chapter 1 of Title 24 of the Administrative Code of the City of New York. All provisions of the original bill that were not related to the regulation of emissions from heavy duty trade waste hauling vehicles has been removed.
- Procedure for the designation of best available retrofit technology has been clarified.
- Waiver application deadlines have been changed, for existing trade waste operators, from July 1, 2019 to January 1, 2020 and, for new trade waste operators, from 180 days before licensure to the date that an application for a license or registration is filed.
- The requirement for an EPA certified 2007 or later engine, or the best available retrofit technology, shall now not apply to any operator during the pendency of an application for a waiver, or for 90 days following the denial of a waiver.
- The penalty for violation of this section has been set to \$10,000, and is now correctable for the first 60 days following a notice of violation and an order to correct. Violations that are not corrected can now accrue an additional penalty of not more than \$500 per day after the first 60 days following the order to correct.

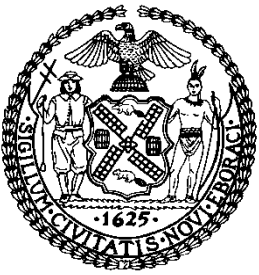
¹ United States Environmental Protection Agency, 2010. *The Green Book Nonattainment Areas for Criteria Pollutants*. Available online at <http://www.epa.gov/oaqps001/greenbk/index.html>

² Id.

³ Id.

⁴ Environmental Defense Fund, 2009. *The Bottom of the Barrel: How the Dirtiest Heating Oil Pollutes Our Air and Harms Our Health*.

(The following is the text of the Fiscal Impact Statement for Int. No. 1160-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: 1160-A

COMMITTEE:
Committee on
Environmental
Protection

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to reducing the emissions of pollutants from heavy duty trade waste hauling vehicles.

SPONSOR(S): Council Members Gennaro, Fidler, Koo, Richards, and Rodriguez, by request of the Mayor.

SUMMARY OF LEGISLATION: Proposed Int. No. 1160-A would require that, by 2020, all heavy duty trade waste hauling diesel vehicles have either an engine certified to 2007 Environmental Protection Agency (EPA) standards, or to retrofit their engines with an emissions control strategy that has been approved by the Commissioner of Environmental Protection. Trade waste haulers that would suffer undue financial hardship because of this requirement would be eligible to receive a renewable two-year waiver from the Business Integrity Commission. All such waivers, however, shall end on January 1, 2025.

The penalty for violating this section is ten thousand dollars, however, such violations are correctable with no penalty within 60 days of a Notice of Violation. If a violation has not been corrected after 60 days, an additional penalty may accrue of not more than five hundred dollars per day until correction is certified.

Beginning in 2019, the Business Integrity Commission will have the authority to deny a license and registration to applicants that fail to demonstrate to the Commission's satisfaction that they will comply with these requirements.

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: N/A

IMPACT ON EXPENDITURES: N/A

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: NYC Council Finance Division

ESTIMATE PREPARED BY: Nathan Toth, Deputy Director

ESTIMATED REVIEWED BY: Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: On September 24, 2013, Intro. 1160 was introduced by the Council and referred to the Committee on Environmental Protection. On November 21, 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. 1160-A, on December 17, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1160-A on December 19, 2013.

(The following is the Mayor's Memorandum in Support for Int. No. 1160-A:)

MEMORANDUM IN SUPPORT

TITLE: 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

SUMMARY OF PROVISIONS:

The proposed legislation would amend, in relevant part, chapter one of title twenty-four of the Administrative Code of the City of New York ("the code"), referred to as the New York City Air Pollution Control Code ("the Air Code"), and make related amendments to the New York City Charter, titles 16, 16-A and 28 of the Administrative Code, the New York City Building Code, and the New York City Mechanical Code.

Section five of the bill amends subchapter one of the Air Code to remove outdated definitions, update existing language to reflect developments in technology and federal, state, and local regulation of air contaminants, and add new definitions addressing sources of emissions that will be newly regulated under this revision to the Air Code.

Section six of the bill amends subchapter two of the Air Code to clarify the general powers of the Commissioner of the Department of Environmental Protection ("DEP") and to make other necessary changes, including affirmatively permitting the use of beneficial technologies. The amendments to subchapter two also modify the provisions governing registration of equipment with DEP, including increasing the threshold for registration of equipment from 2.8 m/Btu to 4.2 m/Btu.

Sections seven through ten of the bill amend subchapter three of the Air Code, which regulates refuse burning equipment, incinerators and crematoriums. Section 24-117, relating to refuse burning equipment, is being repealed because refuse burning is no longer permitted in the City, except in circumstances addressed elsewhere in the Air Code. Section 24-118 of subchapter three is being amended to update the limited exceptions to the Air Code's prohibition on installation of equipment designed to burn solid waste in the City, and to expressly allow equipment for energy generation by DEP and resource recovery by the Department of Sanitation ("DSNY"). Section 24-119, relating to waste compactors, is being repealed from the Air Code. Section two of the bill moves the substantive provisions of the former section 24-119 related to waste compactors to a new section 16-120.2 in title sixteen, which will be enforced by DSNY.

Section eleven of the bill amends subchapter four of the Air Code, which establishes the criteria for issuing work permits and certificates of operation. The amendments in this section remove provisions relating to required work permits for equipment that has become obsolete, and update the list of activities exempted from the requirement to obtain a work permits. In some cases, equipment that would have been required to obtain a certificate of operation under the existing code, will now be required to be registered with DEP.

Section twelve of the bill repeals subchapter five of the Air Code, relating to fee schedules. Pursuant to the amendments to section 24-105 of the code in section six of the bill, fee schedules, including fees for asbestos projects, will now be established by DEP rule.

Sections thirteen and fourteen of the bill create a new heading for subchapter five and move the existing sections related to asbestos from subchapter six to subchapter five. The amendments to the asbestos provisions in sections fifteen through seventeen of the bill are largely intended as clean-up amendments to remove outdated terminology and conform the Air Code provisions to the City's existing asbestos control program. The amendments also clarify the procedures for stop work orders issued by DEP and make clear that the City's asbestos program is intended to protect the public, health, safety and the environment. Employee safety is regulated at the federal level by the Occupational Safety and Health Administration (OSHA). Sections forty-seven through fifty of the bill amend Title 28 of the Administrative Code to correct cross-references to provisions relating to asbestos that have been re-numbered as a result of the amendments to the Air Code.

Sections eighteen through thirty-six of the bill amend subchapter six of the Air Code, relating to emission standards. As noted above, the provisions within subchapter six of the existing code related to asbestos are being deleted from subchapter six and moved to subchapter five. The amendments to the remaining sections within subchapter six update emissions standards for various sources of emissions within the City and conform these standards to the most recent state and federal emissions standards. The amendments to section 24-146 clarify that the precautions related to dust are intended to protect the public health, safety and the environment. Employee safety is regulated at the federal level by OSHA.

Subchapter six is also being amended to add new sections regulating certain sources of emissions not previously regulated by the Air Code, including emissions from motorcycles, outdoor wood boilers, fireplaces, wood burning heaters, commercial char boilers, cook stoves, and stationary generators.

Sections 24-144, relating to a sulfur compounds, is being repealed because it is no longer necessary, given developments in state and local regulation of sulfur content. Section 24-150, relating to smoking in elevators, is being repealed, because it has become redundant by the Smoke Free Air Act, found in Title 17 of the code and enforced by the Department of Health and Mental Hygiene. Section 24-154, relating to environmental ratings, is being repealed because it is no longer necessary, now that the Air Code will directly incorporate the most current state standards for environmental ratings.

Sections fifty-one through fifty-four of the bill make technical amendments to provisions of the New York City Building Code and the New York City Mechanical Code relating to fireplaces and solid fuel-burning appliances to conform to the new provisions in subchapter six of the Air Code establishing requirements for the type of fuel used in such appliances. The bill would also make technical amendments to chapter 33 of the New York City Building Code to conform the chapter to the amended provisions in subchapter six of the Air Code related to precautions to prevent dust from being airborne.

Section thirty-seven of the bill amends subchapter seven of the Air Code, which establishes standards for the use and maintenance of equipment and apparatus and establishes regulations governing emissions from the City's fleet and certain other vehicles regulated by the City. The bill adds two new sections to this subchapter targeting emissions from mobile food trucks, and from heavy duty trade waste vehicles regulated by the Business Integrity Commission (BIC). Sections three and four of the bill amend provisions in title 16-A of the code, authorizing BIC to deny, revoke or suspend licenses and registrations for failure to comply with the new requirements for heavy duty trade waste hauling vehicles added by section thirty-seven of the bill.

Section thirty-eight of the bill amends subchapter eight of the Air Code, relating to fuel standards. The amendments to this subchapter remove outdated language and update existing provisions. These amendments also increase restrictions on the burning of coal and permit the use of renewable fuel.

Sections thirty-nine through forty-six of the bill amend subchapter nine of the Air Code, relating to enforcement procedures. The changes to this subchapter, including the repeal of several provisions within this subchapter, amend the description of the powers and procedures of the Environmental Control Board (ECB) to reflect the current organizational structure of the ECB within the Office of Administrative Trials & Hearings (OATH) and to eliminate provisions that are duplicative of section 1049-a of the New York City Charter and associated rules relating to the powers and procedures of ECB. In a companion amendment, section one of the bill would amend subdivision (a) of section 1049-a of the New York city charter to include provisions that have been removed from the Air Code, relating to the procedures for establishing a quorum at ECB board meetings..

REASONS FOR SUPPORT:

The New York City Air Pollution Control Code was first enacted in the 1970s and has not been significantly amended since its enactment. In order to support the City's goal to improve air quality in the City, as set forth in PlaNYC, this bill will update the Air Code to strengthen existing air quality initiatives and to regulate new sources of air pollution to further improve the City's overall air quality.

Specifically, this bill will make necessary amendments to the Air Code in the following ways: eliminate obsolete and outdated provisions and conform the Air Code to developments in state and federal law and regulation; preserve greater flexibility for DEP to use rulemaking authority to update requirements and standards to account for on-going developments in technology and fuels; and introduce new requirements to limit emissions from certain unregulated sectors, while promoting the adoption of cost-effective air pollution controls.

In order to incorporate developments in United States Environmental Protection Agency ("EPA") and New York State Department of Environmental Conservation ("DEC") standards and improve the overall air quality within the City by promoting a

multi-sector approach to emissions reduction, this bill will target emissions from certain previously unregulated sources in the following areas:

Commercial char broilers and cook stoves that use wood or coal are significant sources of particulate matter emissions, which can lead to health-related impacts, including an increase in asthma and lower respiratory symptoms. In order to reduce such effects, this bill would require controls designed to significantly curtail the smoke and emissions that emanate from these sources. To account for the increase in costs associated with retrofitting existing char broilers and cook stoves, the bill would provide additional time for regulated entities to obtain necessary financing to achieve compliance, while promoting the development of more efficient and cost effective technologies.

Fireplaces that burn wood produce higher levels of particulate matter than fireplaces that burn natural gas or renewable fuels. This bill would require new fireplaces to use only natural gas or renewable fuels in order to reduce the amount of pollutants that are emitted from fireplaces in the City. Existing fireplaces would be required to use treated firewood with a low moisture content that is designed to burn more cleanly and efficiently. The bill would also separately require that fireplaces be compliant with the EPA's performance standards for particulate matter.

Wood smoke from outdoor wood boilers contains fine particulate matter that can cause short-term health effects such as eye, nose, throat and lung irritation. To improve air quality, the bill would ban the use of any fuel in outdoor wood boilers other than clean wood. The bill would also separately require compliance with certain DEC standards for outdoor wood boilers. Outdoor wood boilers would also be subject to the general prohibitions in sections 24-141 and 24-142 of the Air Code, prohibiting the release of odorous air contaminants or of smoke with a relatively greater opacity.

Mobile food trucks must idle in order to prevent food from spoiling. However, the auxiliary engines that power these trucks can be dirty and inefficient and can generate odors and fumes. This bill would provide an incentive for mobile food vendors to bring their auxiliary engines up to the latest EPA standards for controlling emissions by waiving the registration fee for these engines for six years.

Entities authorized by BIC to provide trade waste removal services to commercial businesses maintain a large and ubiquitous heavy duty diesel truck fleet. These trucks are found across every city neighborhood and routinely expose residents to particulate matter and nitrogen oxide emissions at the street level. These pollutants are known contributors to health related impacts, including asthma, respiratory and cardiovascular harm. It is an important public health and service quality goal to ensure that this fleet is brought up to the current EPA requirements for emissions mitigation and modernization. This bill would require heavy duty diesel trucks that exceed a weight of 16,000 lbs and which are used in New York City for collection and/or removal of trade waste are equipped with engines that meet 2007 EPA engine standards or are appropriately retrofitted to match the air quality gains achieved by those standards by January 1, 2020. The proposed provision establishes a compliance date for impacted providers that is reflective of business needs and costs and that takes into account historic replacement and truck purchasing behavior in the industry.

In summary, the bill would amend the Air Code to address previously unregulated sources of air pollution, remove outdated provisions, and make necessary revisions where existing standards are not sufficiently protective or must be updated to conform to federal or state law.

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. 1160-A:)

Int. No. 1160-A

By Council Members Gennaro, Fidler, Koo, Richards, Rodriguez, Vallone, Koppell, Van Bramer, Greenfield and Jackson (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to reducing the emissions of pollutants from heavy duty trade waste hauling vehicles.

Be it enacted by the Council as follows:

Section 1. 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. On or after January first, two thousand nineteen, the commission may refuse to issue a license or registration to an applicant that has failed to demonstrate to the satisfaction of the commission that such applicant will meet the requirements of section 24-163.11 of the code, or any rule promulgated pursuant thereto, in the performance of such license or registration, unless such applicant has been issued a waiver for financial hardship, or has submitted an application for such waiver in accordance with the provisions of subdivision c of section 24-163.11 of the code and such application is pending with the commission.

§ 2. 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 24-163.11 of the code, or any rule promulgated pursuant thereto.

§ 3. Subchapter 7 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-163.11 to read as follows:

§24-163.11 Trade waste vehicles. a. Definitions. When used in this section:

“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 a particular engine and application that has been approved for use by the commissioner.

“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.

“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) On or before June thirtieth, two thousand eighteen, the commissioner shall review the technology verified by the United States environmental protection agency and 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 a particular engine and application and shall promulgate rules setting forth the best available retrofit technology to be used by heavy duty trade waste hauling vehicles

to which this section applies. Such rules shall be reviewed on a regular basis, but in no event less often than once every six months, and shall be revised, as needed.

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 January first, two thousand nineteen, or in the case of an applicant that applies for a license or registration with the business integrity commission pursuant to section 16-505 of the code for the first time after January first, two thousand nineteen, an application for such waiver shall be filed no later than the date on which such license or registration application is filed with the commission. 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. The provisions of paragraph one of subdivision b of this section shall not apply to an applicant that has submitted an application for a waiver in accordance with the provisions of this subdivision while such application is pending with the commission, nor for ninety days after the date of a denial of such waiver.

d. Enforcement. (1) In addition to the department, the business integrity commission shall have the authority to enforce this section and shall have the power to issue notices of violation. All notices of violation issued in accordance with this section shall be returnable to the board.

(2) Any owner or operator of a heavy duty trade waste hauling vehicle that violates any provision of this section shall be liable for a civil penalty of ten thousand dollars per vehicle that is in violation. Each notice of violation shall contain an order of the commissioner or of the chairperson of the business integrity commission directing the respondent to correct the condition constituting the violation and to file with the department or the business integrity commission electronically, or in such other manner as the department or the business integrity commission shall authorize, respectively, a certification that the condition has been corrected within sixty days from the date of the order. In any proceeding before the board, no civil penalty shall be imposed for a violation of this section if the respondent complies with the order of the commissioner or chairperson to correct and to certify correction of the violation within sixty days. In addition to such civil penalty, a separate additional penalty may be imposed of not more than five hundred dollars for each day that the violation is not corrected beyond sixty days from such order.

(3) For the purposes of this section, if the board finds that a certification of correction filed pursuant to paragraph two of this subdivision contained material false statements relating to the correction of a violation, such certification of correction shall be null and void and the penalties set forth in this section for the violation may be imposed as if such false certification had not been filed with and accepted by the department or the business integrity commission. It shall be an affirmative defense that the respondent neither knew nor should have known that such statements were false.

(4) 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.

(5) 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.

§ 4. This local law shall take effect immediately.

JAMES F. GENNARO, Chairperson; G. OLIVER KOPPELL, BRADFORD S. LANDER, STEPHEN T. LEVIN; DONOVAN J. RICHARDS; Committee on Environmental Protection, December 17, 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 Environmental Protection and had been favorably reported for adoption.

Report for Res. No. 2084

Report of the Committee on Environmental Protection in favor of approving a Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1160-A.

The Committee on Environmental Protection, to which the annexed resolution was referred on December 19, 2013, respectfully

REPORTS:

(For text of report, please see related Report of the Committee on Environmental Protection for Int No. 1160-A printed in these Minutes)

Accordingly, this Committee recommended the adoption of Res No. 2082.

(The following is the text of Res. No. 2084:)

Res. No. 2084

Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1160-A.

By Council Members Gennaro, James, Koo and Mendez.

Whereas, The enactment of Proposed Int. No. 1160-A is an "action" as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

Whereas, An Environmental Assessment Statement for this bill was prepared by the Department of Environmental Protection, the lead agency designated pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review; and

Whereas, The Environmental Assessment Statement for this bill was prepared pursuant to Article 8 of the New York State Environmental Conservation Law, section 617.7 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review; and

Whereas, The Council, as an involved agency, has considered the relevant environmental issues as documented in the Environmental Assessment Statement attendant to such enactment and in making its findings and determinations under the Rules of Procedure for City Environmental Quality Review and the State Environmental Quality Review Act, the Council has relied on that Environmental Assessment Statement; and

Whereas, After such consideration and examination, the Council has determined that a Negative Declaration should be issued; and

Whereas, The Council has examined, considered and endorsed the Negative Declaration that was prepared; now, therefore, be it

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

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

(2) as documented in the annexed Environmental Assessment Statement, the proposed action is one which will not result in any significant adverse environmental impacts; and

(3) the annexed Negative Declaration constitutes the written statement of facts and conclusions that form the basis of this determination.

ATTACHMENT: Negative Declaration



Carter H. Strickland, Jr.
Commissioner

Angela Licata
Deputy Commissioner
of Sustainability
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NEGATIVE DECLARATION
Notice of Determination of Non-Significance

December 16, 2013

Amendment to Subchapter 7 of the New York City Air Pollution Control Code

CEQR No. 13DEP024Y

This Negative Declaration for the proposed Local Law to amend the administrative code of the City of New York, in relation to the Air Pollution Control Code ("the Air Code") of chapter 1 of title 24 of such code has been prepared in accordance with the City Environmental Quality Review Act (CEQR) process as set forth in Executive Order 91 of 1977 and amendments, and Article 8 of the Environmental Conservation Law establishing the State Environmental Quality Review Act (SEQRA) and its regulations as set forth in 6NYCRR Part 617.

For local legislation actions, the City Council and the Office of the Mayor are co-lead agencies. On December 11, 2013, the City Council delegated its lead agency status to the Office of the Mayor. The Office of the Mayor subsequently transferred its lead agency status to the New York City Department of Environmental Protection (DEP). Therefore, DEP, asserting its lead agency status, conducted an environmental review of the proposed action. Based on a review of information about the project contained in the environmental assessment statement and any attachments hereto, which are incorporated by reference herein, the DEP has determined that the proposed amendment would not have a significant adverse effect on the environment and is herein publishing a Negative Declaration.

PROJECT DESCRIPTION

The New York City Council is proposing to enact a Local Law by request of the Mayor to amend Subchapter 7 of Chapter 1 of Title 24 of the Administrative Code of the City of New York ("the Air Code") by adding a new section which would seek to reduce the emissions of pollutants from heavy duty trade waste hauling vehicles. The Air Code regulates New York City's air quality in addition to regulations set forth through state and federal standards. The DEP is responsible for updating and enforcing the Air Code which has the goal to preserve, protect and improve the air quality of New York City.

The proposed action seeks to require that all licensed or registered companies that provide trade waste services in New York City that are heavy duty trucks which exceed a weight of 16,000 pounds utilize best available retrofit

technology by the year 2020. Specifically, these trucks are to be equipped with engines that meet 2007 EPA engine standards or are to be appropriately retrofitted to match the air quality gains achieved by those standards. In addition, the air code amendment would include provisions related to (1) promulgating rules that define the best available retrofit technology, and (2) financial hardship waivers.

The proposed provision establishes a compliance date of 2020 that is reflective of business needs and costs and that takes into account historic replacement and truck purchasing behavior in the industry.

The proposed amendment to the Air Code is appended to the Environmental Assessment Statement as Attachment E.

PURPOSE AND NEED

Section 24-102 of the Administrative Code of the City of New York declares that it is the public policy of the City to preserve, protect, and improve the air resources of the City because every person is entitled to air that is not detrimental to life, health, and enjoyment of property. Specifically, Section 24-102 declares that it is the policy of the city to actively regulate, control and reduce air pollution. Section 1403(c) of the Charter of the City of New York and Section 24-105 of the Administrative Code authorize the commissioner to regulate and control the emissions of harmful air pollutants into the open air.

Heavy duty trade waste hauling vehicles are found across every city neighborhood and routinely expose residents to particulate matter (PM) and nitrogen oxide (NO_x) emissions at street level. Engines dating from 2007 and later produce 85% to 95% less PM and NO_x than engines from 2006 and earlier. These pollutants are known contributors to health related impacts, including asthma, respiratory and cardiovascular harm. It is an important public health and service quality goal to ensure that this fleet is brought up to the current EPA requirements for emissions mitigation and modernization.

STATEMENT OF NO SIGNIFICANT EFFECT

The DEP has determined that, as proposed, the amendment to the Air Code is not anticipated to have any potential significant adverse impacts on the quality of the environment. No significant adverse impacts are anticipated to occur to land use, zoning, neighborhood character, and public policy, socioeconomic conditions, visual character and shadows, and construction activities. Overall air quality within the City would improve and public health would benefit in having the proposed amendment in place. These conclusions are based on the information and analyses contained within the attached EAS.

SUPPORTING STATEMENTS

The above determination is based on an environmental assessment which finds that the project, as proposed, would not result in significant effects on the environment that would require the preparation of an Environmental Impact Statement.

For further information, please contact:

Mark N. Page, Jr.
 Managing Director
 Bureau of Environmental Planning and Analysis
 New York City Department of Environmental Protection
 59-17 Junction Boulevard, 11th Floor
 Flushing, NY 11373
 Phone: (718) 595-4395
 email: mpage@dep.nyc.gov

Sincerely,



Angela Licata
 Deputy Commissioner

Enclosures:

- c: Hon. Ruben Diaz, Jr. – Bronx Borough President
- Hon. Marty Markowitz – Brooklyn Borough President
- Hon. Scott M. Stringer – Manhattan Borough President
- Hon. Helen M. Marshall – Queens Borough President
- Hon. James P. Molinaro – Staten Island Borough President
- Hon. Christine C. Quinn – Speaker, City Council
- Hon. James F. Gennaro – Chair, Environmental Protection, City Council
- City Council Members
- Community Board Chairpersons
- Community Board District Managers
- Wesley O'Brien – Mayor's Office of Environmental Coordination
- Christine Billy – New York City Corporation Counsel
- John Cryan – New York State Department of Environmental Conservation
- Michael McSweeney – New York City Clerk
- Daniel Kass – New York City Department of Health
- Sergej Mahnovski – Mayor's Office of Long Term Planning and Sustainability
- Jayant Kairam – New York City Business Integrity Commission

JAMES F. GENNARO, Chairperson; G. OLIVER KOPPELL, BRADFORD S. LANDER, STEPHEN T. LEVIN; DONOVAN J. RICHARDS; Committee on Environmental Protection, December 17, 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

Report for Int. No. 172-A

Report of the Committee on Finance 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 exemptions from the payment of fees for fire department permits, inspections and performance tests.

The Committee on Finance, to which the annexed amended proposed local law was referred on April 14, 2010 (Minutes, page 1349), respectfully

REPORTS:

LOCAL LAW 41 OF 2009:

On June 19, 2009, the City Council passed Local Law 41 of 2009 ("Local Law 41"), which limited the exemption to organizations that operate predominantly as a religious institution, that provide housing to members of the religious institutions' clergy, or educational institutions accredited by New York State providing kindergarten through 12th grade education.

The elimination of the exemption resulted in all not for profit organizations (with the exception of education institutions, houses of worship and adjacent housing for the clergy) being treated in the same manner as for-profit institutions.

Prior to the enactment of Local Law 41, ALL not for profit organizations (501 (c) 3 organizations with a religious, charitable or educational purpose) were exempt from paying the FDNY fees for inspections, permits, and witnessing of required performance tests for equipment.

Local Law 41 was proposed by the Administration to enable the Fire Department to meet its budget targets, and thereby prevent or minimize reduction of essential Fire Department operations. According to the Administration, the average inspection results in a fee of approximately \$325, and the Administration estimated the fiscal impact of Local Law 41 to be approximately \$3 million for Fiscal 2010. To date, that estimate was accurate, and for FY 13, the fiscal impact of the bill was approximately \$3.1 million.

IMPACT OF LOCAL LAW 41

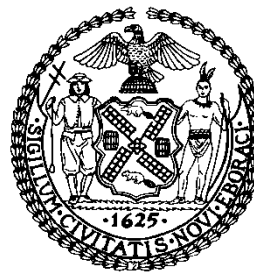
After the passage of Local Law 41, several constituents in the not for profit sector raised concerns about the law, particularly the equity of application of the law. Under Local Law 41, certain not for profit organizations were exempt, but not others. For instance, educational institutions accredited by New York State are exempt from the fees, while non-accredited schools, or schools accredited by entities other than New York State, are not.

PROPOSED INT. 172-A

As a result of these considerations, Proposed Int. 172-A seeks to repeal Local Law 41. Proposed Int. 172-A, if enacted, would reverse the provisions of Local Law 41, allowing once again for ALL charitable organizations to be exempt from Fire Department inspection fees.

The bill would take effect immediately.

(The following is the text of the Fiscal Impact Statement for Int. No. 172-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: 172-A
 COMMITTEE:
 Finance**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to exemptions from the payment of fees for fire department permits, inspections and performance tests.
SPONSOR(S): Council Members Vacca, Gentile, Crowley, Vallone, Lappin, Garodnick, Jackson, Greenfield, Lander, Nelson, Weprin, Mendez, Ulrich, Koo and Halloran.

SUMMARY OF LEGISLATION: Proposed Intro. 172-A would reverse the provisions of Local Law 41 of 2009 to exempt all not-for-profit churches, charitable and educational organizations from payment of Fire Department permit, inspection and performance test fees. Local Law 41 limited the exemption from fees to organizations that operate predominantly as a religious institution, provide housing to the institution's clergy, or educational institutions accredited by New York State that provide kindergarten through 12th grade education.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: FY 2015

FISCAL IMPACT STATEMENT:

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY15
Revenues	-\$1,500,000	-\$3,000,000	-\$3,000,000
Expenditures	\$0	\$0	\$0
Net	-\$1,500,000	-\$3,000,000	-\$3,000,000

IMPACT ON REVENUES: Proposed Intro. 172-A would reduce Fire Department revenue by approximately \$3 million each year. Fees collected pursuant to Local Law 41 have been approximately \$3 million each year since its adoption.

IMPACT ON EXPENDITURES: None.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: City tax levy.

SOURCE OF INFORMATION: Fire Department

ESTIMATE PREPARED BY: Regina Poreda Ryan, Deputy Director

ESTIMATE REVIEWED BY: Tanisha Edwards, Chief Counsel

LEGISLATIVE HISTORY: Intro. 172 was introduced by the Council on April 14, 2010 and assigned to the Committee on Finance. The Committee held a hearing on June 17, 2010 and laid the bill over. An amendment has been proposed, and the Committee will hold a hearing on the amended bill, Proposed Int. 172-A, on December 19, 2013. Following a successful vote by the Committee, Proposed Int. 172-A will be submitted to the full Council for a vote on December 19, 2013.

DATE SUBMITTED TO THE COUNCIL: Intro. 172 was introduced on April 14, 2010.

DATE PREPARED: December 19, 2013

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 172-A:)

Int. No. 172-A

By Council Members Vacca, Gentile, Crowley, Vallone, Jr., Lappin, Garodnick, Jackson, Greenfield, Lander, Nelson, Weprin, Mendez, Koo, Rodriguez, Gonzalez, Recchia, Van Bramer, Dromm, Cabrera, Ulrich and Halloran.

A Local Law to amend the administrative code of the city of New York, in relation to exemptions from the payment of fees for fire department permits, inspections and performance tests.

Be it enacted by the Council as follows:

Section 1. Section FC 117.2.1 of chapter 2 of title 29 of the administrative code of the city of New York, as amended by local law number 41 for the year 2009, is amended to read as follows:

117.2.1 Permit, inspection and performance test fee exemption. The provisions of this code as to the payment of fees for permits, inspections or witnessing of required system performance tests shall not apply to premises used and owned or operated by a [religious or educational institution] *church*, corporation or association organized and operated exclusively for religious, *charitable* or educational purposes that is qualified as an exempt organization pursuant to United States Internal Revenue Code Section 501(c)(3), provided that no part of the net earnings enures to the benefit of any private shareholder or individual; and provided further, that this exemption shall apply only to such portions of the premises used by such [religious or educational institution] *church*, corporation or association [predominantly as one of the following:

1. A house of worship, or dwelling units for members of the clergy of such religious institution, corporation or association situated on or adjacent to the same premises as such house of worship. For purposes of this section, "house of worship" shall mean that part of a premises classified in Occupancy Group A-3 that is used by members of a religious institution, corporation or association principally as a meeting place for divine worship or other religious observances, and "member of the clergy" shall mean a clergyman or minister, as defined in the religious corporations law, who officiates at or presides over such religious observances for such religious institution, corporation or association, and who does not derive his or her principal income from any other occupation or profession.

2. A school accredited by the state of New York providing kindergarten through twelfth grade education.] *for religious, charitable or educational purposes.*

§2. This local law shall take effect immediately.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, December 19, 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. 1040-A

Report of the Committee on Finance 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 the creation of a database to track the expenditure of funds in connection with recovery efforts in the wake of Hurricane Sandy.

The Committee on Finance, to which the annexed amended proposed local law was referred on April 25, 2013 (Minutes, page 1175), respectfully

REPORTS:

I. Background

On November 15, 2013, the Committee on Finance, chaired by Council Member Domenic M. Recchia, Jr held a hearing on Proposed Intro 1040-A, but only a representative from the Mayor's Office of Housing Recovery testified. We also heard from many people from the public who were severely impacted by Sandy, and were enthusiastic about a database that would track Sandy dollars to see how and where the money was going.

On December 2, 2013, the Committee on Finance, held another hearing on this legislation. At such hearing, Deputy Mayor of Operation, Caswell Holloway, representatives from the Mayor's Office of Data Analytics, and the Office of Management and Budget presented testimony and answered the Committee's questions regarding Sandy funding and questions relating to the database that the Administration is currently implementing to see how it can accommodate the provisions in our bill.

At such hearing, the Administration also unveiled their Sandy Tracker database, which contained many, but not all of the provisions of Proposed Int. 1040.¹ For more details of this hearing, see the December 2, 2013 Committee Report for this legislation, on file with the Committee.²

After reviewing the on-line database, and considering public testimony, Proposed Int. 1040-A has been amended, and the amended version will be considered by the Committee on December 19, 2013, and upon successful vote, will be submitted to a vote by the Full Council.

II. Proposed Int. 1040-A

Proposed Int. 1040-A seeks to deliver public-sector value by focusing on transparency, accessibility of information, and accountability of the way in which Sandy funds are used to ensure the integrity of each contract recipient, and the ability to track key performance measurements, such as jobs created and maintained.

Legislative Provisions of Proposed Int. 1040-A

A. Requires the City to establish a searchable, interactive online database that would include summaries of the administration of Hurricane Sandy funds (defined as local, state, or federal funds in excess of \$100,000 provided to a recipient to recover or rebuild from Hurricane Sandy).³ The data included in such database will be available in a format that permits automated processing and shall be available without any registration requirement, license requirement or restrictions on their use, provided that the city may require a third party providing to the public any data from such database, or any application utilizing such data, to explicitly identify the source and version of the data, and a description of any modifications made to such data.⁴ The bill also requires the database to include the following information:

1. For each Hurricane Sandy funded project (defined as any construction, services, or programs, paid for, in whole or in part, with any Hurricane Sandy funds) :

- a. the name of the contractor, and subcontractor if known;
- b. a detailed description of the Hurricane Sandy funded project, including, but not limited to, the physical address, block and lot numbers, estimated dates of start and completion;
- c. purpose of the project in relation to the City's recovery and rebuilding efforts; the value and type of funding provided, including but not limited to grants, loans, contracts, or other such forms of financial assistance, the total number of jobs at the time of award of Hurricane Sandy funds; and

d. the total number of additional jobs to be created and retained over the life of the Hurricane Sandy funded project For Hurricane Sandy funded projects relating to the rebuilding or repairing of four or fewer residential units, data shall not include the physical address, block and lot numbers, site-specific dates of start and completion and the value and type of funding provided; any data provided for such projects shall be aggregated by zip code⁵;

2. For each executed city procurement contract associated with Hurricane Sandy funding, including, but not limited to:

- a. the name of the contract vendor;
- b. contract identification number;
- c. the purpose of the contract;
- d. original contract value in dollars;
- e. revised contract value in dollars, if applicable;
- f. whether the bid was subject to public bidding;
- g. original contract start and end date;
- h. revised contract and end date, if applicable;
- i. contract status;
- j. information on the contract recipient's qualification for receipt of Hurricane Sandy funds for a Hurricane Sandy funded project; and
- k. the total number and type of jobs to be expected to be created and retained over the life of the Hurricane Sandy funded project.

For city procurement contracts related to the rebuilding or repairing of four or fewer residential units, data shall not include information on the contract recipient's qualification for receipt of Hurricane Sandy funds for a Hurricane Sandy funded project if the recipient is a homeowner, tenant or resident of the affected units.⁶

3. For each grant issuance associated with Hurricane Sandy funding, including, but not limited to:
 - a. vendor name;
 - b. the purpose of the grant;
 - c. the grant award amount;
 - d. whether the grant was subject to a selective award process and the nature of that process;
 - e. grant name;
 - f. award status;
 - g. information on the grant recipient's qualification for receipt of Hurricane Sandy funds for a Hurricane Sandy funded project; and
 - h. the total number and type of jobs to be expected to be created and retained over the life of the Hurricane Sandy funded project.

For grants or loans related to the rebuilding or repairing of four or fewer residential units, data shall not include the grant or loan recipient's name or information on the recipient's qualification for receipt of Hurricane Sandy funds for a Hurricane Sandy funded project if the recipient is a homeowner, tenant or resident of the affected unit, and other grant or loan data provided for grants or loans related to the rebuilding or repairing of four or fewer residential units shall be aggregated by zip code.⁷

- B. The bill also requires the database to provide extensive information relating to job creation and retention. The bill requires the database to include:
 1. the total number of jobs at the time of award of Hurricane Sandy funds and the total number of additional jobs to be created and retained in each Hurricane Sandy funding program (in the case of Community Development Block Grant assistance) or for each agency (in the case of Federal Emergency Management Agency), aggregated by zip code, based upon the best practicable methodology for calculating such number over the life of the Hurricane Sandy funded project, including the number of permanent full-time employees, the number of temporary full-time employees, the number of permanent part-time employees, the number of temporary part-time employees, and the total number of contract employees⁸;
 2. the percentage of employees on Hurricane Sandy funded projects earning up to twenty thousand dollars per year; the percentage of employees on Hurricane Sandy funded projects earning more than twenty thousand dollars per year up to thirty-five thousand dollars per year; the percentage of employees on Hurricane Sandy funded projects earning more than thirty-five thousand dollars per year up to fifty thousand dollars per year; the percentage of employees on Hurricane Sandy funded projects earning more than fifty thousand dollars per year;⁹
 3. the percentage of full-time employees on Hurricane Sandy funded projects and the percentage of part-time employees on Hurricane Sandy funded projects to whom their employers offer health benefits;¹⁰
 4. the zip code of residence of employees on Hurricane Sandy funded projects and the zip code of the Hurricane Sandy funded project location on which the employee is employed, except that where the number of employees from one zip code is between one and five, the number of employees shall be replaced with a symbol;¹¹
 5. where the information is available, whether the recipient has ever been found by a court or a government agency to have violated federal, state or local laws relating to occupational safety and health, unemployment, workers compensation, employee misclassification, employment discrimination, employment disability, or other labor laws;¹²
 6. whether the recipient participates in a union construction apprenticeship program and/or other local workforce development program, and, if any, the names of such programs;¹³

7. whether the recipient of Hurricane Sandy funds executed any legal documents subjecting any of the work to be done using such funds to the requirements of one or more prevailing wage laws;¹⁴
8. whether the Hurricane Sandy funded project is subject to and in compliance with Section 3 of the Housing & Urban Development Act of 1968¹⁵; and
9. a list of all contractors, and subcontractors performing work on the Hurricane Sandy funded project.¹⁶

The above provisions shall not apply to projects, grants or loans related to the rebuilding or repairing of four or fewer residential units if the recipient is a homeowner, tenant or resident of an affected unit.¹⁷

- C. The bill also requires the database to be updated on monthly basis¹⁸
- D. The bill also prohibits any information contained on the website to be used to distribute information which, if disclosed, would jeopardize compliance with local, state or federal law, threaten public health, welfare, or safety, or harm the competitive economic position of a party.¹⁹
- E. The bill clarifies that this local law does not create a private right of action to enforce its provisions, and the city will not be liable in case of its failure to comply with this section. The bill also clarifies that the City does not warrant the completeness, accuracy, content or fitness for any particular purpose or use of any information provided by the city pursuant to this section, including but not limited to information provided to the city by a third party or information provided by the city that is based upon information provided by a third party.²⁰
- F. The bill clarifies that the provisions of this local law apply only to contracts entered into by the City after the effective date of the local law.²¹
- G. The bill includes a severability clause to allow the remaining portions of the bill to remain in effect in any portion of the bill is to be adjudged by any court to competent jurisdiction to be invalid or unconstitutional.²²
- H. Specifies that the reporting requirements of this bill, where applicable, are subject to the Open Data law.²³
- I. The bill will take effect 90 days after enactment.²⁴

¹ See NYC Recovery website, available at <http://www1.nyc.gov/sandytracker/#> (last accessed on December 16, 2013).

² The briefing paper can also be found at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1419832&GUID=5902C0D5-CDF7-492C-AD73-DFA089487BCC&Options=ID|Text|&Search=> (last accessed December 16, 2013).

³ See Proposed Int. 1040-A, section 6-138 (b); see also Proposed Int. 1040-A, § 6-138 (a)(1).

⁴ See *id.* at § 6-138 (b).

⁵ See *id.* at § 6-138 (b)(1).

⁶ See *id.* at § 6-138 (b)(2).

⁷ See *id.* at § 6-138 (b)(3).

⁸ See *id.* at § 6-138 (c)(1).

⁹ See *id.* at § 6-138 (c)(2).

¹⁰ See *id.* at § 6-138 (c)(3).

¹¹ See *id.* at § 6-138 (c)(4).

¹² See *id.* at § 6-138 (c)(5).

¹³ See *id.* at § 6-138 (c)(6).

¹⁴ See *id.* at § 6-138 (c)(7).

¹⁵ See also *id.* § 6-138 (c) (8) Section 3 of the Housing & Urban Development Act of 1968 requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

¹⁶ See *id.* at § 6-138 (c) (9).

¹⁷ See *id.* at § 6-138 (d).

¹⁸ See *id.* at § 6-138 (f).

¹⁹ See *id.* at § 6-138 (e).

²⁰ See *id.* at § 6-138 (g).

²¹ See Proposed Int. 1040-A, §2.

²² See Proposed Int. 1040-A, §3.

²³ See Proposed Int. 1040-A, §4.

²⁴ See Proposed Int. 1040-A, §5.

(The following is the text of the Fiscal Impact Statement for Int. No. 1040-A:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION

PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY DIRECTOR

FISCAL IMPACT STATEMENT

INTRO. NO: 1040-A
COMMITTEE: FINANCE

TITLE: Law to amend the administrative code of the city of New York, in relation to the creation of a database to track the expenditure of funds in connection with recovery efforts in the wake of Hurricane Sandy.

SPONSORS: By Council Members Richards, Lander, Wills, Brewer, Chin, Dromm, Fidler, James, Mealy, Mendez, Rose, Vacca, Weprin, Williams, Recchia, Levin, Reyna, Van Bramer, Mark-Viverito, Gonzalez, Nelson, Eugene, Garodnick, Dickens, Palma, Barron, Rodriguez, Ulrich and Oddo.

SUMMARY OF LEGISLATION: The proposed local law requires the City to create an interactive, searchable online database that would include summaries of the administration of Hurricane Sandy funds (defined as local, state, or federal funds in excess of \$100,000 provided to a recipient to recover or rebuild from Hurricane Sandy funds. Data would be provided on the zip code, and be in compliance with the Open Data law.

The purpose of the legislation is to facilitate the access of Sandy funding information, and present such information in a way that allows the public at large to understand, through interactive features and easy-to-read charts, project data (e.g. funding amount, project description, location), and key performance measurements related to such projects, such as jobs created and maintained, and the pay scale for such jobs.

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

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 (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: N/A

IMPACT ON EXPENSE: N/A

Intro 1040-A

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SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Nathan Toth, Deputy Director, Finance Division

HISTORY: Int. 1040 was introduced to the Full Council and referred to Committee on Finance on April 25, 2013. On October 15, 2013, Int. 1040 was re-referred to the Committee on Finance by the Full Council. On November 15, 2013 the Committee held a hearing regarding this legislation, which was then laid over and subsequently amended. ON December 2, 2013 the Committee held another hearing regarding this legislation, which was then laid over and subsequently amended. The Committee will consider an amended version of the legislation, Proposed Intro. 1040-A, on December 19, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1040-A on December 19, 2013.

Intro 1040-A

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Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1040-A:)

Int. No. 1040-A

By Council Members Richards, Lander, Wills, Brewer, Chin, Dromm, Fidler, James, Mealy, Mendez, Rose, Vacca, Weprin, Williams, Recchia, Levin, Reyna, Van Bramer, Mark-Viverito, Gonzalez, Nelson, Eugene, Garodnick, Dickens, Palma, Barron, Rodriguez, Ulrich, Oddo, Arroyo, Ferreras, Jackson, Comrie, Koo, Vann, Koslowitz, Vallone, Lappin and Halloran.

A Local Law to amend the administrative code of the city of New York, in relation to the creation of a database to track the expenditure of funds in connection with recovery efforts in the wake of Hurricane Sandy.

Be it enacted by the Council as follows:

Section 1. Title 6 of the administrative code of the city of New York is amended by adding a new section 6-138 to read as follows:

§6-138. Reporting on the expenditure of Hurricane Sandy funds.

a. Definitions. For purposes of this section, the following terms shall have the following meanings:

(1) "Hurricane Sandy funds" means any federal funds, or local or state funds derived from federal funds, appropriated by Federal Public Law 113-2, an act making supplemental appropriations for the fiscal year September 30, 2013, to improve and streamline disaster assistance for Hurricane Sandy, that are administered or disbursed by the city and provided to a recipient in an amount exceeding one hundred thousand dollars to recover or rebuild from Hurricane Sandy.

(2) "Hurricane Sandy funded projects" means any construction, services, or programs, paid for, in whole or in part, with any Hurricane Sandy funds.

(3) "Recipient" means any person or entity, including any individual, sole proprietorship, partnership, association, joint venture, limited liability company, corporation or any other form of doing business, awarded Hurricane Sandy funds.

b. The City shall establish and maintain a public online searchable and interactive database on the website of the city that shall include summaries of the administration of Hurricane Sandy funds as set forth in this section. The data included in such database shall be available in a format that permits automated processing and shall be available without any registration requirement, license requirement or restrictions on their use, provided that the city may require a third party providing to the public any data from such database, or any application utilizing such data, to explicitly identify the source and version of the data, and a description of any modifications made to such data. The database shall include but not be limited to the following information:

(1) For each Hurricane Sandy funded project for construction, the name of the contractor, and subcontractor, if known, a detailed description of the Hurricane Sandy funded project, including, but not limited to, the physical address, block and lot numbers, estimated dates of start and completion, and purpose of the project in relation to the city's recovery and rebuilding efforts, the value and type of funding provided, including but not limited to grants, loans, contracts, or other such forms of financial assistance, the total number of jobs at the time of award of Hurricane Sandy funds, and the total number of additional jobs to be created and retained over the life of the Hurricane Sandy funded project. For Hurricane Sandy funded projects relating to the rebuilding or repairing of four or fewer residential units, data shall not include the physical address, block and lot numbers, site-specific dates of start and completion and the value and type of funding provided; any data provided for such projects shall be aggregated by zip code;

(2) For each executed city procurement contract associated with Hurricane Sandy funding, including, but not limited to, the name of the contract vendor, contract identification number, purpose of the contract, original contract value in dollars, revised contract value in dollars, if applicable, whether the bid was subject to public bidding, original contract start and end date, revised contract end date, if applicable, contract status, information on the contract recipient's qualification for receipt of Hurricane Sandy funds for a Hurricane Sandy funded project, and the total number and type of jobs to be expected to be created and retained over the life of the Hurricane Sandy funded project. For city procurement contracts related to the rebuilding or repairing of four or fewer residential units, data shall not include information on the contract recipient's qualification for receipt of Hurricane Sandy funds for a Hurricane Sandy funded project if the recipient is a homeowner, tenant or resident of the affected units; and

(3) For each grant or loan issuance associated with Hurricane Sandy funding, including, but not limited to the recipient name, the purpose of the grant or loan, the grant or loan award amount, whether the grant or loan was subject to a selective award process and the nature of that process, grant or loan name, award status, information on the grant or loan recipient's qualification for receipt of Hurricane Sandy funds for a Hurricane Sandy funded project, and the total number and type of jobs to be expected to be created and retained over the life of the Hurricane Sandy funded project. For grants or loans related to the rebuilding or repairing of four or fewer residential units, data shall not include the grant or loan recipient's name or information on the recipient's qualification for receipt of Hurricane Sandy funds for a Hurricane Sandy funded project if the recipient is a homeowner, tenant or resident

of the affected unit, and other grant or loan data provided for grants or loans related to the rebuilding or repairing of four or fewer residential units shall be aggregated by zip code;

c. In addition to the provisions of subdivision b of this section, the website shall also include:

(1) the total number of jobs at the time of award of Hurricane Sandy funds and the total number of additional jobs to be created and retained in each Hurricane Sandy funding program (in the case of Community Development Block Grant assistance) or for each agency (in the case of Federal Emergency Management Agency), aggregated by zip code, based upon the best practicable methodology for calculating such number over the life of the Hurricane Sandy funded project, including the number of permanent full-time employees, the number of temporary full-time employees, the number of permanent part-time employees, the number of temporary part-time employees, and the total number of contract employees;

(2) the percentage of employees on Hurricane Sandy funded projects earning up to twenty thousand dollars per year; the percentage of employees on Hurricane Sandy funded projects earning more than twenty thousand dollars per year up to thirty-five thousand dollars per year; the percentage of employees on Hurricane Sandy funded projects earning more than thirty-five thousand dollars per year up to fifty thousand dollars per year; the percentage of employees on Hurricane Sandy funded projects earning more than fifty thousand dollars per year;

(3) the percentage of full-time employees on Hurricane Sandy funded projects and the percentage of part-time employees on Hurricane Sandy funded projects to whom their employers offer health benefits;

(4) the zip code of residence of employees on Hurricane Sandy funded projects and the zip code of the Hurricane Sandy funded project location on which the employee is employed, except that where the number of employees from one zip code is between one and five, the number of employees shall be replaced with a symbol;

(5) where the information is available, whether the recipient has, within the past ten years, been criminally convicted of any crime related to truthfulness or business conduct and the record of all sanctions imposed within the prior five years as a result of judicial or administrative disciplinary proceedings with respect to any professional licenses held by the recipient;

(6) where the information is available, whether the recipient participates in a union construction apprenticeship program and/or other local workforce development program, and, if any, the names of such programs;

(7) whether the recipient of Hurricane Sandy funds executed any legal documents subjecting any of the work to be done using such funds to the requirements of one or more prevailing wage laws;

(8) whether the Hurricane Sandy funded project is subject to and in compliance with Section 3 of the Housing & Urban Development Act of 1968; and

(9) a list of all contractors, and subcontractors performing work on the Hurricane Sandy funded project.

The provisions of this subdivision shall not apply to projects, grants or loans related to the rebuilding or repairing of four or fewer residential units if the recipient is a homeowner, tenant or resident of an affected unit.

d. The provisions of this section shall not be construed to require the disclosure of information concerning contractors selected by recipients of Hurricane Sandy funds in relation to the rebuilding or repairing of four or fewer residential units where such recipients are homeowners, tenants or residents of affected units.

e. Notwithstanding the provisions of this section, the website required pursuant to this section shall not be used to distribute information which, if disclosed, would jeopardize compliance with local, state or federal law, threaten public health, welfare, or safety, or harm the competitive economic position of a party.

f. The public online database prescribed in subdivision b of this section shall be updated on a monthly basis.

g. This section shall not be construed to create a private right of action to enforce its provisions. Failure to comply with this section shall not result in liability for the city. The city shall not be deemed to warrant the completeness, accuracy, content or fitness for any particular purpose or use of any information provided by the city pursuant to this section, including but not limited to information provided to the city by a third party or information provided by the city that is based upon information provided by a third party.

§2. This local law shall not require reporting on any contracts entered into prior to the effective date of this local law where the reporting requirements of this local law would require collecting information that is not available to the city, and cannot reasonably be obtained by the city.

§3. If any provision of this local law or the application thereof shall for any reason be adjudged by any court to competent jurisdiction to be invalid or unconstitutional, such judgment shall not effect, impair or invalidate the remainder of this local law.

§4. Data maintained pursuant to this local law shall also be subject to chapter 5 of title 23 of the administrative code, where such chapter is otherwise applicable.

§5. This local law shall take effect 90 days after its enactment into law, provided, however, that city agencies, officers and employees, including but not limited to the city chief procurement officer, shall take such actions as are necessary for its implementation prior to such effective date.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY,

JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, December 19, 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. 1171-A

Report of the Committee on Finance 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 the sale of tax liens.

The Committee on Finance, to which the annexed amended proposed local law was referred on October 9, 2013 (Minutes, page 4180), respectfully

REPORTS:

On Thursday, December 19, 2013, the Committee on Finance and the Committee on Community Development will consider Proposed Int. 1171-A, a local law to amend the Administrative Code in relation to the sale of tax liens.

BACKGROUND/ LIEN SALE HISTORY

A lien is a legal claim against real property for unpaid property taxes, water, sewer or other property charges, as well as the interest due on these taxes and charges.¹ When outstanding amounts have been delinquent for a legally specified period of time, and the City has mailed notice to the property owner, the City of New York, via the Department of Finance (“DOF”) commissioner is allowed to sell the lien(s) to an authorized third party, who becomes the “tax lien purchaser” (Trust).² The Trust packages the liens into security-backed assets, which are sold to investors on the private placement market. The Trust pays the City a certain portion of the value of the liens upfront, usually around 90 percent of the lien value. At this point, the City no longer “owns” the liens and has no role in the post-lien sale process. The Trust hires private collection agents or servicers to collect the debt from the owners and to handle foreclosure proceedings and property auctions.

On March 2, 2013, the City Council voted to adopt Local Law 15 of 2011.³ This Local Law

Made extensive reforms to the City’s Lien Sale process to, *inter alia*, include a host of protections to property owners whose home was subject to the tax lien sale. Notable protections include:

- Raising the threshold for properties to be included in the tax lien sale would increase for water and sewer liens to 1 year and \$2,000 for 2- and 3-family homes from \$1,000.
- Codifying DOF’s practice of first-class mail notification to property owners at 90, 60, and 30 days prior to the lien sale date, and adds a 10 day mailing, in addition to the publication at 90 and 10 days before lien sale.
- Require bi-annual (October and January) statements and all lien sale notifications are to include: 1) qualifying exemption information; 2) payment plan availability; 3) ombudsperson contact information; and 4) a lien sale process description.
- Require statements and notices must be in Chinese, English, Korean, Russian, or Spanish if requested by owner, or if DOF has reason to believe that is the property owners’ primary language. Post-sale notifications are to include contact information for the Department of Environmental Protection (“DEP”) and DOF ombudsperson.
- Reduced the interest rate that lien services charged after a lien is sold to 9% (from 18%) on properties with an assessed value up to \$250,000.
- Require servicers to provide an itemization of taxes, interest, and fees on servicer bills and make all fees reasonable and bona fide, and in the case of attorney fees, customary.
- Require servicers to include language in all communications regarding: 1) availability of forbearance agreement, 2) explanation of the role of the lien servicer, and 3) servicer and City ombudsperson contact information.
- Require DOF to provide an exemption eligibility checklist to help make homeowners aware of qualifying exemptions that would exclude them from the lien sale. The checklist would be included in any mailing to a delinquent taxpayer, and with all notices to homeowners whose properties have been included in a lien sale notification list. Upon receipt of an eligibility

checklist, or other communication indicating possible exemption eligibility of a property owner, DOF must follow prescribed steps to provide the homeowner with application forms for the appropriate exemption. DOF is to provide a list to the Council of property owners who returned an exemption eligibility checklist but not a completed application 30 days prior to the lien sale, and again 30 days after the lien sale. Property owners who have communicated to DOF their possible eligibility prior to the lien sale have 90 days from the lien sale date to submit an exemption application.

- Require DOF and DEP to allow homeowners to enter into a payment agreement plan with no down payment (unless the property owner specifies otherwise).

Problems with Local Law 15

Since the passage of Local Law 15, the Committees have heard from dozens of constituents and advocacy groups about the provision in the law that requires only property owners to enter into payment agreements.

As mentioned above, Local Law 15 allows property owners who are eligible for the lien sale to enter into a payment agreement with DOF or DEP. With the acceptance into a payment agreement, the property subject to the lien sale will be removed from that year’s lien sale. An individual, however, who is not the property owner or listed on the deed to the property cannot enter into a payment agreement, even though such individual is, or has been, maintaining payments on the property. The Committees learned that this is particularly a problem with children of deceased parents who died without a will, or intestate, and have not yet added their name to the deed. In these cases, the children of the deceased continue to maintain the property (payments for property taxes, water, mortgage, etc.), however, they are prevented from entering into a payment agreement with DOF or DEP to avoid the lien sale, if they fall short on such payments.

Another problem with Local Law 15 that was brought to the attention of the Committees relates to the accessibility of the exemption eligibility checklist. As mentioned, Local law 15 requires DOF to provide an exemption eligibility checklist to help make homeowners aware of qualifying exemptions that would exclude them from the lien sale.⁴ The checklist is included in any mailing to a delinquent taxpayer, and with all notices to homeowners whose properties have been included in a lien sale notification list.⁵ Upon receipt of an eligibility checklist, or other communication indicating possible exemption eligibility of a property owner, DOF must follow prescribed steps to provide the homeowner with application forms for the appropriate exemption. Property owners who have communicated to DOF their possible eligibility prior to the lien sale have 90 days from the lien sale date to submit an exemption application, regardless of whether the statutory exemption application deadline of March 15th has passed. Local law 15 also requires DOF to provide prompt assistance to any homeowner in completing their exemption application.⁶

Since the passage of Local Law 15, the Committees have learned that many individuals do not have adequate or consistent access to their mail for a myriad of reasons (vacation, post office box, etc.). Since the exemption eligibility checklist is not included on DOF’s website, many individuals do not get the opportunity to take advantage of the benefits of the exemption eligibility checklist.

Proposed Int. 1171-A

To address these problems, Proposed Int. 1171-A would amend the tax lien law to include additional protections for individuals subject to the lien sale law. Specifically, the legislation requires the Department of Finance to post the exemption eligibility checklist on-line on the first business day after the statutory exemption application deadline of March 15th, and requires “eligible persons” other than the property owner (as defined by DOF and DEP) to enter into a payment agreement to prevent the property’s inclusion into the lien sale.

Specifically, Proposed Int. 1171-A would amend Local Law 15 by:

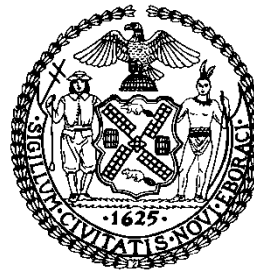
- requiring the Department of Finance to post the exemption eligibility checklist on-line on the first business day after the statutory exemption application deadline of March 15th until the 10 days before the lien sale;
- requiring individuals other than the property owner “other eligible persons” (which shall include beneficiaries and fiduciaries) (as defined by DOF and DEP rule) to enter into a payment agreement under the same terms as a property owner to prevent the property’s inclusion into the lien sale. Criteria to meet the definition of other eligible person shall be established by rule;
- specifying that the criteria to meet to be determined as an “other eligible person” shall be proven by the furnishing of any death certificates, or other relevant documents that substantiate the claim of a beneficiary that they are the legal owner of the property.
- specifying that only one payment agreement with each respective agency may be in effect for a property at any one time; and

- requiring DOF and DEP to promulgate rules no later than June 1, 2014 regarding the eligibility of owners or other eligible persons acting on behalf of owners to enter into installment agreements.

Proposed Int. 1171-A would take effect immediately.

¹ See generally, NYC Administrative Code, Title 11, Chapter 3.
² See NYC Administrative Code § 11-332; see also *id.* at 11-319.
³ See New York City Council Local Law 15 for the year 2011, available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=648866&GUID=BD596712-BAC0-48DD-92BE-1B00DB7A8497&Options=ID|Text|Search=> (last accessed November 14, 2013).
⁴ See NYC Administrative Code § 11-320(b)(2).
⁵ See *id.*
⁶ See *id.*

(The following is the text of the Fiscal Impact Statement for Int. No. 1171-A:)



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

INTRO. NO: 1171-A
 COMMITTEE:
 Finance

TITLE: To amend the administrative code of the city of New York, in relation to the sale of tax liens.
SPONSOR(S): Council Members Vann, Recchia, Barron, Comrie, Jackson, James, Koo, Levin, Reyna, Richards, Rodriguez, Rose, Koppell and Fidler

SUMMARY OF LEGISLATION: Proposed Int. 1171-A would amend the tax lien law to include additional protections for individuals subject to the lien sale law. Specifically, the legislation requires the Department of Finance to post the exemption eligibility checklist on-line on the first business day after the statutory exemption application deadline of March 15th, and requires “eligible persons” other than the property owner (as defined by DOF and DEP) to enter into a payment agreement to prevent the property’s inclusion into the lien sale. The legislation would also specify that only payment agreement with each respective agency may be in effect for a property at any one time. The legislation would also allow individuals who are a fiduciary or beneficiary of a property to be eligible to settle the outstanding lien or enter into the payment agreement plans as described in Local Law 15 of 2011 as long as they provide a copy of a death certificate or other relevant documents that substantiate the claim of a beneficiary that they are the legal owner of the property.

EFFECTIVE DATE: Prop. Intro 1171-A would take effect immediately

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2015

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: DOF and DEP each estimate that in an average year about 7 to 10 properties would fall under the expanded eligibility to enter into a payment agreement plan as provided by this law. These properties tend to be small residential properties, so the debts tend to be relatively modest. Since the properties will be entering into a payment agreement plan and will be required to maintain payment on the plan, it is expected the loss of revenue from having the additional lien sale 14 to 20 properties will be mostly offset by the income stream from the payment plans (which the City can capitalize due to its low borrowing rates). For that reason, and due to the low number of properties impacted by this legislation, the revenue impact is expected to be de minimis.

IMPACT ON EXPENDITURES: None

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: Department of Finance, Department of Environmental Protection, City Council Finance Division

ESTIMATE PREPARED BY: Emre Edev, Senior Financial Legislative Analyst

ESTIMATED REVIEWED BY: Raymond Majewski, Deputy Director/Chief Economist
Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on October 9, 2013 as Intro. 1171, and referred to the Committee on Finance. On November 19, a joint hearing with the Committee on Community Development was held, and the bill was laid over. An amended version of the legislation, Proposed Intro. 1171-A, will be considered by the Committee on Finance on December 19, 2013, and upon successful vote, the bill will be immediately submitted to the full Council for a vote at the Stated meeting.

DATE SUBMITTED TO COUNCIL: See legislative history

DATE PREPARED: December 18, 2013

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1171-A:)

Int. No. 1171-A

By Council Members Vann, Recchia, Barron, Comrie, Jackson, James, Koo, Levin, Reyna, Richards, Rodriguez, Rose, Koppell and Fidler.

A Local Law to amend the administrative code of the city of New York, in relation to the sale of tax liens.

Be it enacted by the Council as follows:

Section 1. Subparagraph (i) of paragraph 2 of subdivision b of section 11-320 of the administrative code of the city of New York, as added by local law number 15 for the year 2011, is amended to read as follows:

(i) Such notices shall also include, with respect to any property owner in class one or class two, as such classes of property are defined in subdivision one of section eighteen hundred two of the real property tax law, an exemption eligibility checklist. *The exemption eligibility checklist shall also be posted on the website of the department no later than the first business day after March fifteenth of every year prior to the date of sale, and shall continue to be posted on such website until ten days prior to the date of sale.* Within ten business days of receipt of a completed exemption eligibility checklist from such property owner, provided that such receipt occurs prior to the date of sale of any tax lien or tax liens on his or her property, the department of finance shall review such checklist to determine, based on the information provided by the property owner, whether such property owner could be eligible for any exemption, credit or other benefit that would entitle them to be excluded from a tax lien sale and, if the department determines that such property owner could be eligible for any such exemption, credit or other benefit, shall mail such property owner an application for the appropriate exemption, credit or other benefit. If, within twenty business days of the date the department mailed such application, the department has not received a completed application from such property owner, the department shall mail such property owner a second application, and shall telephone the property owner, if the property owner has included his or her telephone number on the exemption eligibility checklist.

§ 2. Subdivision b of section 11-322 of the administrative code of the city of New York, as added by local law number 15 for the year 2011, is amended to read as follows:

b. In accordance with rules promulgated by the commissioners of finance and environmental protection, a property owner, *or other eligible person, as defined by rule, acting on behalf of an owner,* may enter into agreements with the departments of finance and environmental protection for the payment in installments of any delinquent real property taxes, assessments, sewer rents, sewer surcharges, water rents, or any other charges that are made a lien subject to the provisions of this chapter. The proposed sale of a tax lien or tax liens on property shall be cancelled when a property owner, *or other eligible person acting on behalf of an owner,* enters into an agreement with the respective agency for the payment of any such lien. Such rules shall also provide that such property owners *or such other eligible persons* be given information regarding eligibility for real property tax exemption programs prior to entering into such agreements. *As used in this subdivision, the term "other eligible person" shall include a fiduciary, as defined in paragraph three of subdivision (a) of section 11-1.1 of the estates, powers and trusts law, acting with respect to the administration of the property of an estate of a decedent who owned the real property as to which an agreement under this subdivision is sought, or on behalf of a beneficiary of such real property from such estate. Any rules promulgated in accordance with this subdivision defining "other eligible person"*

shall include in such definition the means by which a beneficiary of real property of the estate of a decedent who owned real property as to which an agreement under this subdivision is sought meets the definition of "other eligible person." Such means shall include the furnishing of any death certificates or other relevant documents that substantiate the claim of a beneficiary that they are the legal owner of the property. Notwithstanding any other provision of this section, no more than one such agreement with each respective agency may be in effect for a property at any one time.

1. If payments required from a property owner, *or other eligible person acting on behalf of an owner,* pursuant to such an agreement are not made for a period of six months, such property owner, *or such other eligible person,* shall be in default of such agreement, and the tax lien or tax liens on the subject property may be sold, provided, however, that such default may be cured upon such property owner's, *or such other eligible person's,* bringing all installment payments and all current charges that are outstanding at the time of the default to a current status, which shall include, but not be limited to, any outstanding interest and fees, prior to the date of sale. If such default is not cured prior to the date of sale, such property owner, *and any other eligible person acting on behalf of an owner,* shall not be eligible to enter into an installment agreement for the subject property for five years, unless there is a finding of extenuating circumstances by the department that entered into the installment agreement with the property owner *or such other eligible person.*

2. An installment agreement shall provide for payments by the property owner, *or other eligible person acting on behalf of an owner,* on a quarterly or monthly basis, in the discretion of the appropriate commissioner, for a period not less than eight years and not more than ten years, provided that a property owner, *or other eligible person acting on behalf of an owner,* may elect a period less than eight years. There shall be no down payment required upon the property owner's, *or such other eligible person's,* entering into the installment agreement with the respective department, but the property owner, *or other eligible person acting on behalf of an owner,* may elect to make a down payment.

3. Beginning January first, two thousand twelve, any property owner who has entered into an installment agreement with the commissioner of environmental protection pursuant to this subdivision and who has automated meter reading shall receive a consolidated monthly bill for current sewer rents, sewer surcharges and water rents and any payment due under such installment agreement.

4. No later than September first, two thousand eleven, the commissioners of finance and environmental protection shall promulgate rules governing installment agreements, including but not limited to, the terms and conditions of such agreements, the payment schedules, and the definition and consequences of default; *no later than June first, two thousand fourteen, the commissioners of finance and environmental protection shall promulgate rules governing eligibility of owners or other eligible persons acting on behalf of owners to enter into installment agreements.*

§ 3. This local law shall take effect immediately.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, December 19, 2013.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1171-A:)

**THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the sale of tax liens..

Given under my hand and seal this 19th day of December, 2013 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

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. 1186

Report of the Committee on Finance in favor of approving and adopting, a Local Law to amend the administrative code of the city of New York, in relation to the establishment of the Hudson Yards business improvement district.

The Committee on Finance, to which the annexed proposed local law was referred on October 30, 2013 (Minutes, page 4516), respectfully

REPORTS:

BACKGROUND

The proposed Hudson Yards Business Improvement District (hereinafter the "District") is located in the borough of Manhattan and is generally bounded by West 42nd street to the north, eleventh avenue to the west, ninth avenue to the east, and West 30th street to the south. The District is largely within the Hudson Yards Special District, which was created in 2005 to foster a mix of uses and densities, provide new publicly accessible open space, extend the Midtown central business district by providing opportunities for substantial new office and hotel development, reinforce existing residential neighborhoods and encourage new housing on Manhattan's Far West Side.

The District represents portions of 26 blocks and has 1,164 tax lots. The District is located in Community Board 4. There are approximately 150 ground level retail tenants, approximately 300 upper floor commercial tenants, and 6,336 residential units of which 836 are individual residential condos. The District also contains 5 buildings with 975 hotel rooms.

The District will be managed by the Hudson Yards District Management Association, Inc. Services to be provided in the District include: maintenance for Hudson Park (as agreed upon with the Parks Department) for public safety, traffic safety, creation of more open green space, marketing and promotion, administrative expenses, and a reserve (\$1.8 million).

BID Assessment

Maintenance for Hudson Park (as agreed upon with Parks department) for public safety	\$445,000
District Wide services (traffic safety, creation of more green space, Ads and informational docs about local businesses)	\$430,000
Administration	\$325,000
Future Year Reserves	\$1.8 M

The budget for the first year of operation is \$1.2 million; with the maximum annual thereafter to operate the BID is \$3 million. The maximum cost for capital improvements for the entire existence of the proposed District shall be \$7 million.

Not for profits and individuals residential condominiums pay \$1.00, government buildings located within the proposed District are exempt. 226 tax lots of the 1,164 (19%) will pay the assessment, which averages to \$5,259. Assessment payments would vary with the highest totaling approximately \$178,000 for an 866,000 Yards foot mixed use property with an assessed value of \$83 million, and the lowest payment totaling approximately \$94 for a 550 Yards foot property with an assessed value of \$28,000.

*****For more details on the Hudson Yards BID, see the attached District Plan.*****

ANALYSIS OF INT. 1186:

Under Local Law 82 of 1990, the City Council assumed responsibility for adopting the legislation that would establish individual business improvement districts.

Business Improvement Districts (BIDs) are specifically defined areas of designated properties. They use the City's real property tax collection mechanism to collect a special tax assessment that the BID District Management Association uses to pay for additional services beyond those that the City provides. The additional services would be designed to enhance the area and to improve local business. Normally, a BID's additional services would be in the areas of security, sanitation, physical/capital improvements (lighting, landscaping, sidewalks etc.), seasonal activities (Christmas lighting) and related business services (marketing and advertising).

Under the process established by Chapter 4 of Title 25 of the Administrative Code, the City Council has already adopted Resolution 1993, which set the hearing date for the BID Plan and its enacting legislation for Thursday, November 14, 2013.

Prior to the Council's action, the Community Board for the district in which the proposed BID is located -- Community Board 4 of Manhattan -- voted to approve the Plan on July 31, 2013. The City Planning Commission ("CPC") reviewed the Plan and held a public hearing on the Plan on September 11, 2013. The CPC approved a resolution on September 30, 2013 (Calendar No. 4), which certified the CPC's unqualified approval of the Plan.

Resolution 1993, approved by the Finance Committee and adopted by the Council on October 30, 2013, set the date for this hearing and directed that all notice provisions contained in the law be complied with. Therefore, the Department of Small Business Services was directed to publish the Resolution or its summary in the City Record not less than ten nor more than thirty days before this Public Hearing and the Hudson Yards Business Improvement District Steering Committee was directed to mail the Resolution or its summary to each owner of real property within the BID, to such other persons as are registered with the City to receive tax bills for property within the BID and to occupants of each building within the BID, also not less than ten nor more than thirty days before this Public Hearing.

The Public Hearing to consider both the plan itself and the enacting legislation, according to the provisions of the law, is to be closed without a vote. The Committee then must wait at least 30 days before it can again consider and possibly vote to approve this legislation. The 30-day period immediately after this Public Hearing serves as an objection period. Any property owner may, during this time period, formally object to the Plan by filing such objection in the Office of the City Clerk, on forms provided by the City Clerk. In the event that either at least 51 percent of the total number of property owners or owners with at least 51 percent of the assessed valuation of all the benefited real property within the district object to the plan, then the City Council is prohibited, by law, from approving such plan.

When the Committee considers this legislation after the conclusion of the objection period, it must answer the following four questions:

1. Were all notices of hearing for all hearings required to be held published and mailed as so required?;
2. Does all the real property within the district's boundaries benefit from the establishment of the district, except as otherwise provided by the law?;
3. Is all real property benefited by the district included within the district?; and
4. Is the establishment of the district in the best interests of the public?

If the Committee finds in the affirmative on these four questions and the number of objections required to prevent the creation of such district are not filed, then the legislation can be adopted.

This local law takes effect after all requirements contained in chapter four of title 25 are complied with.

NOVEMBER 14, 2013 PUBLIC HEARING ON INT. 1186

On November 14, 2013, the Finance Committee met to consider Int. 1186, legislation that would establish the Hudson Yards BID.

As required by the BID law, set forth in Article 19-a of the State's General Municipal Law and Title 25 of the Administrative Code, the Finance Committee had to wait at least 30 days after the hearing to allow property owners that are negatively affected by the establishment of the BID to formally file objections with the City Clerk. Copies of such objection forms were made available at the City Clerk's office at 1 Centre street.

The Public Hearing to consider both the BID plan itself and the enacting legislation, according to the provisions of the law, was closed without a vote. The 30-day period began immediately after the November 14th Public Hearing. During that time, any property owner was able to formally object to the Plan by filing such objection in the Office of the City Clerk, on forms provided by the City Clerk. In the event that either at least 51 percent of the total number of property owners (1,160) or owners with at least 51 percent of the assessed valuation of all the benefited real property within the district (\$854,988,037) object to the BID plan, then the City Council is prohibited by law from approving such plan.

UPDATE:DECEMBER 19, 2013 HEARING

After the November 14, 2013 Public Hearing, the Finance Committee adjourned the hearing without a vote, and the objection period began the day after such Public Hearing. The objection period for the creation of this BID ended on December 14, 2013 at 5p.m. According to the City Clerk, out of the 854 property owners located in the proposed BID, one owner filed a valid objection.¹ The lone objection represents 0.01% of the assessed valuation in the district, and 0.12% of the owners benefited by the BID.

Since the number of objections required to prevent the creation of the BID have not been filed with the City Clerk, if the Committee finds in the affirmative on the four questions noted on pages 4 and 5 of this report, then the legislation can be adopted, and the BID will be established.

¹ The property owner opposed paying an additional fee for supplemental services provided by the BID. Objection on file with the Committee.

(The following is the text of the Fiscal Impact Statement for Int. No. 1186:)



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

FISCAL IMPACT STATEMENT

INTRO. NO: 1186
COMMITTEE: Finance

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the establishment of the Hudson Yards business improvement district

SPONSORS: By Council Members Recchia and Koo (by request of the Mayor)

SUMMARY OF LEGISLATION: Intro 1186 amends Chapter 5 of title 25 of the administrative code of the city of New York by adding a new section 25-485 to establish a business improvement district in the borough of Manhattan to be known as the Hudson Yards Business Improvement District (the "District").

EFFECTIVE DATE: This local law would take effect upon compliance with section 25-408 of chapter 4 of title 25 of the administrative code of the city of New York, which requires review of the BID legislation by the State Comptroller.

Services	Total Funds
Maintenance for Hudson Park (as agreed upon with Parks department) for public safety	\$445,000
District Wide services (traffic safety, creation of more green space, Ads and informational docs about local businesses)	\$430,000
Administration	\$325,000
Future Year Reserves	\$1.8 M
TOTAL FIRST YEAR BUDGET	\$1.2M

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2014

FISCAL IMPACT STATEMENT:

	Effective FY 2014	Succeeding Effective FY: FY 2015	Full Fiscal Impact FY 2014
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES AND EXPENDITURES: This local law would result in no fiscal impact upon the City's revenues or expenditures. Under the Code, proceeds authorized to be assessed by the District are collected by the City on behalf of the District. None of these proceeds are proceeds of the City and they may not be used for any purpose other than those set forth in the BID's District Plan. The Hudson Yards Business Improvement District will be funded through an additional self-assessment by property owners within the district. The anticipated revenues from this self-assessment in Fiscal 2014 will be \$1.2 million. This amount will cover the BID's expenses as proposed by its first year budget. Subsequent budgets will be determined on a yearly basis with the maximum annual thereafter to operate the BID is \$3 million. The maximum cost for capital improvements for the entire existence of the proposed District shall be \$7 million.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable

SOURCE OF INFORMATION: New York City Council Finance Division
Department of Small Business Services

ESTIMATE PREPARED BY: Tanisha Edwards, Chief Counsel, Finance Division

ESTIMATE PREPARED ON: December 17, 2013

DATE SUBMITTED TO COUNCIL: October 30, 2013

HISTORY: The Committee on Finance held a hearing on Intro 1186 on November 14, 2013, and the legislation was laid over to allow for the statutory 30-day objection period. Intro 1186 will be considered again by the Committee on December 19, 2013 and, upon successful vote, will be submitted to the Full Council for a vote.

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 1186:)

Int. No. 1186

By Council Members Recchia and Koo (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to the establishment of the Hudson Yards business improvement district.

Be it enacted by the Council as follows:

Section 1. Chapter 5 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-485 to read as follows:

§ 25-485 Hudson Yards business improvement district.

a. The city council having determined, pursuant to section 25-407 of chapter four of this title: that notice of hearing for all hearings required to be held was published and mailed as required by law and was otherwise sufficient; that, except as otherwise provided in section 25-403 of chapter four of this title, all the real property within the boundaries of the district will benefit from the establishment of the district; that all the real property benefited is included within the limits of the district; and that the establishment of the district is in the public interest; and the council having determined further that the requisite number of owners have not objected as provided in section 25-406 of chapter four of this title, there is hereby established in the borough of Manhattan, the Hudson Yards business improvement district. Such district is established in accordance with the district plan required to be filed with the city clerk pursuant to subdivision b of this section.

b. Immediately upon adoption of this local law by the council, the council shall file with the city clerk the district plan upon which the Hudson Yards business improvement district is based.

c. The district plan shall not be amended except in accordance with chapter four of this title.

§ 2. This local law shall take effect upon compliance with section 25-408 of chapter 4 of title 25 of the administrative code of the city of New York.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, December 19, 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. 1204-A

Report of the Committee on Finance 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 extending the rate of the additional tax on the occupancy of hotel rooms.

The Committee on Finance, to which the annexed amended proposed local law was referred on November 26, 2013 (Minutes, page 4917), respectfully

REPORTS:

BACKGROUND

The New York City Hotel Room Occupancy Tax (the "Hotel Tax"), is a tax imposed on the occupancy - or the right to occupancy - of a room or rooms in a hotel.¹ The term "hotel" includes an apartment hotel, motel, boardinghouse, bed-and-breakfast, bungalow, or club, whether or not meals are served.² The City charges a flat fee for rooms over \$40 a night at the rate of \$2.00 per day³ The City also charges an additional tax of 5.875 percent on rent room charge.⁴ These 2 charges -the flat fee and the additional tax- comprise the Hotel Tax. The Hotel Tax is levied in addition to the combined City, State, and MCTD sales tax (at 4.5 percent, 4.0 percent, 0.375 percent, respectively), bringing the aggregate hotel occupancy tax and sales tax on a hotel rental in the City to 14.75 percent.⁵ Combined, according to the Mayor's 2013 November Financial Plan for Fiscal Years 2014- 2017, the hotel room

occupancy tax is expected to generate \$520 million in revenue for Fiscal Year 2014. For Fiscal Year 2013, the tax generated \$505 million.

LEGISLATIVE HISTORY

Chapter 161 of 1970 authorizes New York City to adopt and amend local laws imposing a hotel tax. The rates of the hotel tax are set by State legislation, which dictates the fee based on the daily rental value of the hotel room occupied.⁶ As authorized by State legislation, section 11-2502 of the administrative code imposes a graduated tax upon the occupancy of hotel rooms in the city of New York at a rate of \$.50 per day if the daily rent for the room is \$10 or more, but less than \$20; \$1.00 per day if the daily rent is \$20 or more, but less than \$30; \$1.50 per day of the daily rent is \$30 or more, but less than \$40; and \$2.00 per day of the daily rent is \$40 or more.

The State legislation also allows the City to impose an additional tax on persons occupying hotel rooms in New York City. The State legislation provides the City with discretion in setting the rate for the additional tax, allowing the City to set the rate up to 6 percent.⁷ Under State law, if the additional tax is imposed at the rate of 6 percent or above, then 4 1/6 percent of the total amount of the tax, including interest and penalties, must be dedicated for the sole purpose of promoting tourism and conventions in New York City and deposited in a special tourism and convention fund.⁸ Of this dedicated revenue, seven-eighths of the one-quarter percent funds the New York Convention and Visitors Bureau, pursuant to an annual contract with the City.⁹ The remaining one-eighth of the dedicated fund is required to be expended on the supplemental promotion of tourism and conventions throughout the City.¹⁰ The City Council can effectively increase the rate to slightly under 6 percent, thereby allowing all of the revenue generated by the increase to further the causes of the City and be placed in the City's general fund.¹¹

Until 1986, the tax only imposed a flat fee based on the daily rental value of the hotel room occupied. In 1986, an additional tax at the rate of 5 percent on the rent or charge was imposed.¹² As a result of the additional tax, tax collections, increased from \$26 million in 1986 to \$79 million in 1987.¹³ In 1990, faced with tough economic times, the City increased the additional tax on hotels by 1 percent, from 5 percent to 6 percent, which triggered the tourism dedication requirement¹⁴. In 1994, both the State and City acted to reduce the hotel occupancy tax burden. In 1994, the City repealed its 1.0 percent tax increase, returning the rate to 5.0 percent.

RECENT INCREASE TO HOTEL TAX

Similar to 1990 when the City increased the tax to 6 percent, in 2008, the City faced tough economic times.

In order to maintain core services that are vital to our City, the Council had to make difficult choices in deciding where and how to generate additional revenue to close the budget gap for Fiscal 2009, 2010 and the out-years. One option was to raise the hotel tax rate.

A main concern with this option was whether increasing the tax might impact industry sales and prices. However, hotel occupancy and room rates are determined by a variety of factors, including domestic personal income and wealth, the level of safety and amenities of the locality, and the exchange rate and economic growth overseas. The hotel tax is a relatively small part of overall costs of business or vacation travel.

In 2008, the City Council passed legislation to increase the tax imposed upon the occupancy of hotel rooms from a rate of 5 percent of the daily rent of each room to 5.875 percent.¹⁵ This rate went into effect on March 1, 2009.¹⁶ Beginning on, and after, December 1, 2012, the hotel tax was to revert back to 5 percent, unless extended by legislation.¹⁷ In November, 2011, the Council extended the rate of 5.875 percent to November 30, 2013.¹⁸

According to the Mayor's Memorandum of Support for the legislation authorizing the 2011 increase, during the years of the rate increase, the City actually experienced a roughly 17 percent increase in room nights sold over such period. From September 2009 through September 2011, hotel revenues per room have grown by about 20 percent, further evidence that visitors to New York City are not deterred by the current rate of hotel room occupancy tax.

According to the Memorandum of Support for the legislation authorizing the 2013 increase, from January 2013 through June 2013, hotel revenues have grown approximately 6% compared to the same period in 2012, and approximately 14% compared to the same period in 2011. Visitors to New York City have not been deterred by the current rate of hotel room occupancy tax. New York City tourism hit an all-time high in 2012 with 52 million visitors, and is continuing to grow with similar momentum in 2013.

According to the Administration, without the extension of the current rate, the City would lose over \$30 million in revenue in FY2014 and over \$70 million in FY2015.¹⁹

PROPOSED INT. 1204-A

Proposed Int. 1204-A would amend Chapter 25 of Title 11 of the Administrative Code to extend the 5.875 percent rate of the tax from December 20, 2013 until November 30, 2015. Beginning on December 1, 2013 and ending before December 20, 2013, and starting again on December 1, 2015, the hotel tax would revert back to 5 percent.

Proposed Int. 1204-A would take effect immediately and, if it shall become a law after December 20, 2013, it shall be retroactive to, and deemed to have been in full force and effect as of, December 20, 2013.

Difference between Int. 1204 and Proposed Int. 1204-A²⁰

On November 26, 2013, the Council introduced Int. 1204. Since the introduction of Int. 1204, the introduction has been amended to make the effective date retroactive to December 20, 2013, the date after the Council is slated to vote on the local law. A retroactive date is necessary to account for the gap between Council passage of the legislation, and the Mayor's signing of the legislation for enactment of the bill into law. Proposed Int. 1204-A reflects such amendment.

¹ See §11-2502 of the Administrative Code. The following are exempt from the hotel tax: A permanent resident, defined as a person who occupies a room for at least 180 consecutive days; New York State, a public corporation, or a political subdivision of the State; the United States; the United Nations; and a not-for-profit organization that was formed and operated exclusively for religious, charitable, or educational purposes.

² See §11-2501 (5).

³ See §11-2502 (a)(2).

⁴ See §11-2502 (a)(3).

⁵ In addition there is a \$2 per room fee dedicated to the New York Convention Center. See N.Y. TAX. LAW § 1104

⁶ NY CLS Unconsol. Ch 288-C, § 1, (9).

⁷ See *id.* at § 1, (1)(c)(1-a).

⁸ NY CLS Unconsol. Ch 288-C, § 1, (9).

⁹ See *id.*

¹⁰ See *id.*

¹¹ See *id.* at § 1, (1)(c)(1-a).

¹² See Local Law 69 of the Year 1986.

¹³ See Tax Revenue Forecasting Documentation, Financial Plan, Fiscal Year 2007-2011.

¹⁴ See Local Law 43 of the Year 1990.

¹⁵ See Local Law 65 of the Year 2008.

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ See Local Law 67 of the Year 2011.

¹⁹ The FY14 November Plan from FY13 to FY17 assumed an extension of the 5.875 percent rate.

The Plan also assumed the rate would be extended prior to its expiration date on December 1, 2013. Relative to the FY14 November Plan, this legislation would decrease hotel occupancy tax revenues by \$4.4 million in Fiscal 2013 since the tax would have reverted to a 5 percent rate between the days of December 1, 2013 and December 20, 2013.

²⁰ The rate was 5.875 percent between March 1 2009 and December 1, 2013. It temporarily reverted to 5 percent between December 1, 2013 and December 20, 2013.

(The following is the text of the Fiscal Impact Statement for Int. No. 1204-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.: 1204-A

COMMITTEE: Finance

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to extending the rate of the additional tax on the occupancy of hotel rooms. SPONSORS: Fidler, Brewer, and James (by request of the Mayor)

SUMMARY OF LEGISLATION: Proposed 1204-A would amend chapter 25 of title 11 of the administrative code of the city of New York to extend the current 5.875 percent rate of the hotel room from December 20, 2013 to November 30, 2015. The rate would revert to 5 percent on December 1, 2015. The rate was 5.875 percent between March 1 2009 and December 1, 2013. It temporarily reverted to 5 percent between December 1, 2013 and December 20, 2013.

EFFECTIVE DATE: This bill would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2014

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: The FY14 November Plan from FY13 to FY17 assumed an extension of the 5.875 percent rate. The Plan also assumed the rate would be extended prior to its expiration date on December 1, 2013. Relative to the FY14 November Plan, this legislation would decrease hotel occupancy tax revenues by \$4.4 million in Fiscal 2013 since the tax would have reverted to a 5 percent rate between the days of December 1, 2013 and December 20, 2013.

IMPACT ON EXPENDITURES: None

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Raymond Majewski, Deputy Director-Revenue/Chief Economist

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Jonathan Auerbach, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Tanisha Edwards, Chief Counsel, Finance Division

ESTIMATE REVIEWED ON: December 17, 2013

HISTORY: To be considered by the Committee on Finance on December 19, 2013.

DATE SUBMITTED TO COUNCIL: November 26, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1204-A:)

Int. No. 1204-A

By Council Members Fidler, Brewer, James and Jackson (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to extending the rate of the additional tax on the occupancy of hotel rooms.

Be it enacted by the Council as follows:

Section 1. Paragraph 3 of subdivision a of section 11-2502 of the administrative code of the city of New York, as amended by local law number 67 for the year 2011, is amended to read as follows:

(3) In addition to the tax imposed by paragraph two of this subdivision, there is hereby imposed and there shall be paid a tax for every occupancy of each room in a hotel in the city of New York (A) at the rate of five percent of the rent or charge per day for each such room up to and including August thirty-first, nineteen hundred ninety, (B) at the rate of six percent of the rent or charge per day for each such room on and after September first, nineteen hundred ninety and before December first, nineteen hundred ninety-four, (C) at the rate of five percent of the rent or charge per day for each such room on and after December first, nineteen hundred ninety-four and before March first, two thousand nine, (D) at the rate of five and seven-eighths percent of the rent or charge per day for each such room on and after March first, two thousand nine and before December first, two thousand thirteen, [and] (E) at the rate of five percent of the rent or charge per day for each such room on and after December first, two thousand thirteen and before December twentieth, two thousand thirteen, (F) at the rate of five and seven-eighths percent of the rent or charge per day for each such room on and after December twentieth, two thousand thirteen and before December first, two thousand fifteen, and (G) at the rate of five percent of the rent or charge per day for each such room on and after December first, two thousand fifteen.

§ 2. This local law shall take effect immediately and, if it shall have become a law after December 20, 2013, shall be retroactive to and deemed to have been in full force and effect as of December 20, 2013.

JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER; Committee on Finance, December 19, 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 Int. No. 1227

Report of the Committee on Finance in favor of approving and adopting, a Local Law to amend the administrative code of the city of New York, in relation to health insurance coverage for surviving family members of certain deceased employees of the police department.

The Committee on Finance, to which the annexed proposed local law was referred on December 19, 2013, respectfully

REPORTS:

STATUTORY BACKGROUND:

Currently, section 12-126(b)(2)(i) of the Administrative Code of the City of New York provides health insurance benefits to a surviving spouse or domestic partner, and dependent children of police officers, firefighters, uniformed members of the correction or sanitation department, emergency medical technician, advanced emergency medical technician and employees whose duties required the direct supervision of employees whose duties are those of an emergency medical technician

or advanced emergency medical technician of the fire department of the city of New York while in performance of duty on or after September 11, 2001. Benefits are provided if the employee was killed as the natural and proximate result of an accident or injury sustained while in the performance of duty. The health insurance benefits are provided to a surviving spouse or domestic partner until he or she dies, and are provided to dependent children until age 19, or, if enrolled full-time as an undergraduate at an accredited degree-granting institution of higher education, until the completion of the educational program, or age 23, whichever occurs first.

The section also provides that the Mayor has the discretion to extend such benefits to surviving spouses, domestic partners and eligible dependent children of employees of the fleet services division of the Police Department who died in the line of duty on or after October 1, 1998 and before April 30, 1999; the surviving spouses, domestic partners and children of employees of the roadway repair and maintenance division of the department of transportation who died on or after September 1, 2005 and before September 28, 2005; and the surviving spouses, domestic partners and children of employees of deceased employees of the Bureau of Wastewater Treatment of the Department of Environmental Protection who have died on or after January 8, 2009 and prior to January 10, 2009. The cause of death would still be required to be a natural and proximate result of an accident or injury sustained while in the performance of duty.

In addition, this section provides that any individual in active service covered by section 126(b)(2)(i) shall be deemed to have died in the line of duty if such death occurs while the individual was ordered to active duty, other than for training purposes, pursuant to Title 10 of the United States Code, with the United States armed forces.

APPLICATION OF LAW

On November 30, 2013, Kalyanarat Ranasinghe, a member of the Traffic Enforcement District of the Transportation Bureau of the New York City Police Department, died on duty when struck by a truck.

The inclusion of survivors of the Traffic Enforcement District of the Transportation Bureau of the New York City Police Department would be within 12-126(b)(2)(i) of the Code that grants authority to the Mayor to use his or her discretion to extend benefits to the spouses, domestic partners and eligible dependent children of employees of the specified agencies who died during the course of their employment.

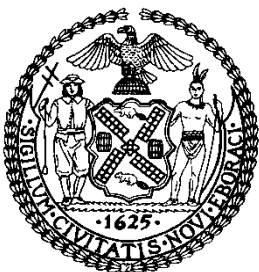
This pre-considered Intro. would extend health insurance coverage to Kalyanarat Ranasinghe’s widow and any eligible children, thus helping to ease the financial burdens of his family and demonstrating the City’s appreciation of this employee’s dedicated service to the people of this City.

PRECONSIDERED INT. (“the legislation”)

Section 1 of the legislation would amend section 126(b)(2)(i) to include the surviving spouses, domestic partners and children of employees of deceased employees of the Traffic Enforcement District of the Transportation Bureau of the New York City Police Department who died on or after November 1, 2013 and prior to December 1, 2013. The cause of death would still be required to be a natural and proximate result of an accident or injury sustained while in the performance of duty.

Section 2 of the legislation would provide that this proposed local law would take effect immediately, and would be retroactive to and deemed to have in full force and effect on and after November 30, 2013.

(The following is the text of the Fiscal Impact Statement for Int. No. 1227:)



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

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

FISCAL IMPACT STATEMENT

**PRE-CONSIDERED INTRO.
COMMITTEE:
Finance**

TITLE: To amend the administrative code of the city of New York, in relation to health insurance coverage for surviving family members of certain deceased employees of the police department.

SPONSOR(S): The Speaker (Council Member Quinn) and Council Members Mark-Viverito, Dromm, Brewer, Chin, Comrie, Eugene, Ferreras, Jackson, James, Lander, Mendez, Palma, Reyna, Williams, Wills, Lappin and Rodriguez

SUMMARY OF LEGISLATION: This pre-considered Intro. would extend health insurance coverage to Kalyanarat Ranasinghe’s widow and any eligible children. Mr. Ranasinghe died while at work as a New York City Police Department traffic enforcement agent on November 30, 2013 after being struck by a truck.

EFFECTIVE DATE: November 30, 2013

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: FY 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: None.

IMPACT ON EXPENDITURES: None.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: Finance Division

ESTIMATE PREPARED BY: Regina Poreda Ryan, Deputy Director

LEGISLATIVE HISTORY: This legislation will be considered by the Committee on Finance as a Pre-considered Intro on December 19, 2013 and upon a successful vote, the bill would be submitted to the full Council for a vote.

DATE SUBMITTED TO COUNCIL: December 19, 2013

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 1227:)

Int. No. 1227

By Council Members Recchia, Chin and Dickens (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to health insurance coverage for surviving family members of certain deceased employees of the police department.

Be it enacted by the Council as follows:

Section 1. Subparagraph (i) of paragraph 2 of subdivision b of the administrative code of the city of New York, as amended by local law number 9 for the year 2009, is amended to read as follows:

(i) Where the death of a member of the uniformed forces of the police or fire departments is or was the natural and proximate result of an accident or injury sustained while in the performance of duty, the surviving spouse or domestic partner, until he or she dies, and the children under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-three years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. Where the death of a uniformed member of the correction or sanitation departments has occurred while such employee was in active service as the natural and proximate result of an accident or injury sustained while in the performance of duty, the surviving spouse or domestic partner, until he or she dies, and the child of such employee who is under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-three years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. Where the death of an employee of the fire department of the city of New York who was serving in a title whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law), or whose duties required the direct supervision of employees whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law) is or was the natural and proximate result of an accident or injury sustained while in the performance of duty on or after September eleventh, two thousand one, the surviving

spouse or domestic partner, until he or she dies, and the children under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-three years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. The mayor may, in his or her discretion, authorize the provision of such health insurance coverage for the surviving spouses, domestic partners and children of employees of the fleet services division of the police department who died on or after October first, nineteen hundred ninety-eight and before April thirtieth, nineteen hundred ninety-nine[, and]; the surviving spouses, domestic partners and children of employees of the roadway repair and maintenance division of the department of transportation who died on or after September first, two thousand five and before September twenty-eighth, two thousand five[, and]; the surviving spouses, domestic partners and children of employees of the bureau of wastewater treatment of the department of environmental protection who died on or after January eighth, two thousand nine and before January tenth, two thousand nine[.]; and the surviving spouses, domestic partners and children of employees of the traffic enforcement district of the transportation bureau of the police department who died on or after November first, two thousand thirteen and before December first, two thousand thirteen as a natural and proximate result of an accident or injury sustained while in the performance of duty, subject to the same terms, conditions and limitations set forth in the section. Provided, however, and notwithstanding any other provision of law to the contrary, and solely for the purposes of this subparagraph, a member otherwise covered by this subparagraph shall be deemed to have died as the natural and proximate result of an accident or injury sustained while in the performance of duty upon which his or her membership is based, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code, and such member died while on active duty or service in the uniformed services on or after June fourteenth, two thousand five while serving on such active military duty or in the uniformed services.

§ 2. This local law shall take effect immediately, and shall be retroactive to and deemed to have been in full force and effect on and after November 30, 2013.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, December 19, 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 Int. No. 1228

Report of the Committee on Finance in favor of approving and adopting, a Local Law in relation to the date of submission by the mayor of a preliminary management report and the date prior to which the council shall conduct public hearings and the date by which the council shall submit a report or reports pertaining thereto, the date of submission by the mayor of the preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects, the date of submission by the mayor of the preliminary budget, the date of publication by the director of the independent budget office of a report on revenues and expenditures, the date of submission by the community boards of statements in regard to the preliminary budget, the date of submission by the commissioner of finance of an estimate of the assessed valuation of real property and statement of real property taxes due, expected to be received, and uncollected, the date of submission by the mayor of a tax benefit report, the date of submission by the borough boards of statements on budget priorities, the date of submission by the council of estimates of the financial needs of the council, the date of submission by the borough presidents of proposed modifications of the preliminary budget, the date of publication by the director of the independent budget office of a report analyzing the preliminary budget, the date by which the council shall hold hearings and submit recommendations in regard to the preliminary budget, and the date of submission by the campaign finance board of estimates of the financial needs of the campaign finance board, relating to the fiscal year two thousand fifteen.

The Committee on Finance, to which the annexed proposed local law was referred on December 19, 2013, respectfully

REPORTS:

ANALYSIS:

Various provisions in chapter ten of the New York City Charter (the "Charter") prescribe the actions that need to be taken as part of the annual budget submission process for the following fiscal year's budget. The Charter specifies certain dates on which the Mayor must submit its preliminary budget, as well as the Mayor's Preliminary Management Report ("PMMR"). The Charter also prescribes the dates for preliminary budget actions taken by other agencies, such as the Independent Budget Office, the Department of Finance, as well as city officials, such as the Borough Presidents.

This Intro would provide for an extension of the date for the submission of fiscal year 2015 budget-related documents by the Mayor and other agencies, and also extends the date by which the Council must conduct its hearings and submit its recommendations on the preliminary budget and the PMMR.

The extended dates are noted below, and dates of greater importance to the Council and/or require Council action are highlighted. Generally, most dates were pushed back approximately 26 days, the same length of the extension of time provided for the release of the preliminary budget.

	<u>Charter Date</u>	<u>For FY 2015</u>
Mayor's submission of preliminary management report (Charter sec.12)	not later than January 30	not later than February 21
Council's public hearings and report on preliminary management report (sec.12) <i>(These hearings are done jointly with the prelim. budget hearings)</i>	prior to April 8	prior to May 5
Mayor's preliminary certificate on maximum capital debt and obligations (sec.235)	not later than January 16	not later than February 12
Mayor's submission of preliminary budget (sec.236)	not later than January 16	not later than February 12
IBO revenue report (sec.237)	on or before February 1	on or before February 28
Community boards submission of assessment of preliminary budget (sec.238)	not later than February 15	not later than March 14
Finance Commissioner's submission of estimate of assessed valuation and of taxes due and uncollected (sec.239)	not later than February 15	not later than March 14
Mayor's submission of tax benefit report (sec.240)	not later than February 15	not later than March 14
Borough board's statement on borough priorities (sec. 241)	not later than February 25	not later than March 24

	<u>Charter Date</u> not later than March 10	<u>For FY 2015</u> not later than April 10
Council's submission of operating budget (sec.243)		
Borough President's submission of recommended modifications to preliminary budget (sec.245)	not later than March 10	not later than April 7
IBO preliminary budget report (sec.246)	on or before March 15	on or before April 11
Council's preliminary budget hearings and submission of recommendations (sec.247)	not later than March 25	not later than April 23
Campaign Finance Bd. Submission of financial needs (sec.1052)	on or before March 10	on or before April 2



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION

PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY DIRECTOR

FISCAL IMPACT STATEMENT

PRECONSIDERED INT.
COMMITTEE: Finance

TITLE: A Local Law in relation to the date of submission by the mayor of a preliminary management report and the date prior to which the council shall conduct public hearings and the date by which the council shall submit a report or reports pertaining thereto, the date of submission by the mayor of the preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects, the date of submission by the mayor of the preliminary budget, the date of publication by the director of the independent budget office of a report on revenues and expenditures, the date of submission by the community boards of statements in regard to the preliminary budget, the date of submission by the commissioner of finance of an estimate of the assessed valuation of real property and statement of real property taxes due, expected to be received, and uncollected, the date of submission by the mayor of a tax benefit report, the date of submission by the borough boards of statements on budget priorities, the date of submission by the council of estimates of the financial needs of the council, the date of submission by the borough presidents of proposed modifications of the preliminary budget, the date of publication by the director of the independent budget office of a report analyzing the preliminary budget, the date by which the council shall hold hearings and submit recommendations in regard to the preliminary budget, and the date of submission by the campaign finance board of estimates of the financial needs of the campaign finance board, relating to the fiscal year two thousand fifteen.

SPONSORS: Council Member Recchia (by request of the Mayor)

(The following is the text of the Fiscal Impact Statement for Int. No. 1228:)

- SUMMARY OF LEGISLATION:** This legislation would change the charter-mandated deadline dates for the following:
1. Mayor's submission of the preliminary management report no later than February 21, 2014.
 2. Completion of the City Council's public hearings on the preliminary management report and submission of recommendations no later than May 5, 2014.
 3. Mayor's submission of the preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects no later than February 12, 2014.
 4. Mayor's submission of the preliminary budget no later than February 12, 2014.
 5. Independent Budget Office's submission of report on revenues and expenditures no later than February 28, 2014.
 6. Community Boards' submission of assessment of the preliminary budget no later than March 14, 2014.
 7. Commissioner of Finance's submission on estimates of the assessed valuation of real property and a certified statement of all real property taxes due no later than March 14, 2014.
 8. Mayor's submission of tax benefit report no later than March 14, 2014.
 9. Borough Boards' submission of budget priorities no later than March 24, 2014.
 10. City Council's submission of its operating budget no later than April 10, 2014.
 11. Borough President's submission of any proposed modifications to the preliminary budget no later than April 7, 2014.
 12. Independent Budget Office's submission of report analyzing the preliminary budget no later than April 11, 2014.
 13. Completion of City Council's preliminary budget hearings and submission of recommendations no later than April 23, 2014.
 14. Campaign Finance Board's submission of the financial needs of the campaign finance board no later than April 2, 2014.

EFFECTIVE DATE:
This legislation would take effect immediately, except that if it shall have become a law after January 16, 2014, it shall be retroactive to and deemed to have been in full force and effect as of January 16, 2014.

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 no impact on revenues resulting from the enactment of this legislation.

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

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Tanisha Edwards, Chief Counsel
City Council Finance Division

ESTIMATE PREPARED ON: December 17, 2013

HISTORY: To be considered by Committee on December 19, 2013

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 1228:)

Int. No. 1228

By Council Members Recchia and Koo (by request of the Mayor).

A Local Law in relation to the date of submission by the mayor of a preliminary management report and the date prior to which the council shall conduct public hearings and the date by which the council shall submit a report or reports pertaining thereto, the date of submission by the mayor of the preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects, the date of submission by the mayor of the preliminary budget, the date of publication by the director of the independent budget office of a report on revenues and expenditures, the date of submission by the community boards of statements in regard to the preliminary budget, the date of submission by the commissioner of finance of an estimate of the assessed valuation of real property and statement of real property taxes due, expected to be received, and uncollected, the date of submission by the mayor of a tax benefit report, the date of submission by the borough boards of statements on budget priorities, the date of submission by the council of estimates of the financial needs of the council, the date of submission by the borough presidents of proposed modifications of the preliminary budget, the date of publication by the director of the independent budget office of a report analyzing the preliminary budget, the date by which the council shall hold hearings and submit recommendations in regard to the preliminary budget, and the date of submission by the campaign finance board of estimates of the financial needs of the campaign finance board, relating to the fiscal year two thousand fifteen.

Be it enacted by the Council as follows:

Section 1. During the calendar year 2014 and in relation to the 2015 fiscal year:

1. Notwithstanding any inconsistent provisions of section 12 of the New York city charter, as amended by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit a preliminary management report as therein described not later than February 26, 2014, and the council shall conduct public hearings on such report prior to May 5, 2014 and submit to the mayor and make public not later than May 5, 2014, a report or reports of findings and recommendations.

2. Notwithstanding any inconsistent provisions of section 235 of the New York city charter, as added by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit and publish a preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects as therein described not later than February 12, 2014.

3. Notwithstanding any inconsistent provisions of section 236 of the New York city charter, as amended by local law number 25 for the year 1998, the mayor shall pursuant to such section submit a preliminary budget as therein described not later than February 12, 2014.

4. Notwithstanding any inconsistent provisions of section 237 of the New York city charter, as added by vote of the electors on November 7, 1989, the director of the independent budget office shall publish a report on revenues and expenditures as therein described on or before February 28, 2014.

5. Notwithstanding any inconsistent provisions of section 238 of the New York city charter, as added by vote of the electors on November 7, 1989, each community board shall pursuant to such section submit a statement and recommendations in regard to the preliminary budget as therein described not later than March 14, 2014.

6. Notwithstanding any inconsistent provisions of section 239 of the New York city charter, as added by vote of the electors on November 7, 1989, the commissioner of finance shall pursuant to such section submit an estimate of the assessed valuation of real property and a certified statement of all real property taxes due as therein described not later than March 14, 2014.

7. Notwithstanding any inconsistent provisions of section 240 of the New York city charter, as added by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit a tax benefit report as therein described not later than March 14, 2014.

8. Notwithstanding any inconsistent provisions of section 241 of the New York city charter, as added by vote of the electors on November 7, 1989, each borough board shall pursuant to such section submit a statement of budget priorities as therein described not later than March 24, 2014.

9. Notwithstanding any inconsistent provisions of section 243 of the New York city charter, as added by vote of the electors on November 7, 1989, the council shall pursuant to such section approve and submit estimates of the financial needs of the council as therein described not later than April 7, 2014.

10. Notwithstanding any inconsistent provisions of section 245 of the New York city charter, as added by vote of the electors on November 7, 1989, each borough president shall pursuant to such section submit any proposed modifications of the preliminary budget as therein described not later than April 7, 2014.

11. Notwithstanding any inconsistent provisions of section 246 of the New York city charter, as added by vote of the electors on November 7, 1989, the director of the

independent budget office shall pursuant to such section publish a report analyzing the preliminary budget as therein described on or before April 11, 2014.

12. Notwithstanding any inconsistent provisions of section 247 of the New York city charter, as added by vote of the electors on November 7, 1989, the council shall pursuant to such section hold hearings and submit recommendations as therein described not later than April 21, 2014.

13. Notwithstanding any inconsistent provisions of subdivision c of section 1052 of the New York city charter, as added by vote of the electors on November 3, 1998, the campaign finance board shall pursuant to such subdivision submit estimates of the financial needs of the campaign finance board as therein described not later than April 7, 2014.

§ 2. This local law shall take effect immediately, except that if it shall have become a law after January 16, 2014, it shall be retroactive to and deemed to have been in full force and effect as of January 16, 2014.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, December 19, 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 Res. No. 2090

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 December 19, 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 19, 2009, the Council adopted the expense budget for fiscal year 2010 with various programs and initiatives (the "Fiscal 2010 Expense Budget").

Analysis. This Resolution, dated December 19, 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, Fiscal 2013 and Fiscal 2010 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. This resolution also designates \$550,000 to Common Cents New York, Inc., included in MN-1 on October 9, 2013.

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 2010 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 4-12; sets forth new designations and specific changes in the designation of certain organizations

receiving local initiative funding pursuant to the Fiscal 2010 Expense Budget, as described in Chart 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 2012 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 Social Adult Day Care Programs 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 Domestic Violence and Empowerment (DoVE) 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 YMCA After-School 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 Out of School Time 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 Asthma Control Program 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 HIV/AIDS Faith Based 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 funding pursuant to the Design Week Initiative in accordance with the Fiscal 2014 Expense Budget.

Chart 11 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to Senior Center and Programs Restoration Initiative in accordance with the Fiscal 2014 Expense Budget.

Chart 12 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to Initiative Funding Changes in accordance with the Fiscal 2014 Expense Budget.

Chart 13 sets forth the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2010 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. 2090:)

Res. No. 2090

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

By Council Members Recchia, Koo, and Rose.

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 new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding; and

Whereas, On June 19, 2009 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2010 with various programs and initiatives (the "Fiscal 2010 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 youth discretionary funding;

Whereas, On October 19, 2013, the Council of the City of New York (the "City Council") adopted Resolution 1959, titled "Resolution approving the modification (MN-1) of Units of Appropriation and the Transfer of City Funds Between Agencies Proposed by The Mayor Pursuant to Section 107 (b) of the New York City Charter (MN-1)", which provided funding in the amount of \$550,000 from the general reserve to Common Cents New York, Inc. (EIN 13-3613229) within the budget of the Department of Youth and Community Development; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in Resolution 1959 by approving the funding allocated to Common Cents New York, Inc. within the budget of the Department of Youth and Community Development; now 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 Social Adult Day Care Programs 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 Domestic Violence and Empowerment (DoVE) 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 YMCA After-School Program 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 Out of

CHART 1: Local Initiatives - Fiscal 2014 (continued)

Member	Organization	EIN Number	Agency	Amount	Agy #	UJA	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN *
Dickens	NYCHA Saint Nicholas Society	13-6400434	NYCHA	(\$3,500)	098	002		
Dickens	New York City Housing Authority - Saint Nicholas Residents Association	13-6400434	NYCHA	\$3,500	098	002		
Brewer	NYCHA Sonoma Thomas	13-6400434	NYCHA	(\$1,000)	098	002		
Brewer	New York City Housing Authority - Sonoma Thomas	13-6400434	NYCHA	\$1,000	098	002		
Recchia	NYCHA Stignation Houses TA	13-6400434	NYCHA	(\$2,000)	098	002		
Recchia	New York City Housing Authority - Stignation Houses TA	13-6400434	NYCHA	\$2,000	098	002		
Recchia	NYCHA Todd Hill Houses TA	13-6400434	NYCHA	(\$2,000)	098	002		
Recchia	New York City Housing Authority - Todd Hill Houses TA	13-6400434	NYCHA	\$2,000	098	002		
Recchia	NYCHA Uthly Towers TA, Coney Island 1	13-6400434	NYCHA	(\$2,000)	098	002		
Recchia	New York City Housing Authority - Uthly Towers TA, Coney Island 1	13-6400434	NYCHA	\$2,000	098	002		
Recchia	NYCHA West Towers Tenant Association	13-6400434	NYCHA	(\$2,000)	098	002		
Recchia	New York City Housing Authority - West Brighton Houses TA	13-6400434	NYCHA	\$2,000	098	002		
Brewer	NYCHA West Towers Tenant Association	13-6400434	NYCHA	(\$2,000)	098	002		
Brewer	New York City Housing Authority - West Towers Tenant Association	13-6400434	NYCHA	\$2,000	098	002		
Brewer	NYCHA WSJURA	13-6400434	NYCHA	(\$1,000)	098	002		
Brewer	New York City Housing Authority - WSJURA	13-6400434	NYCHA	\$1,000	098	002		
Brewer	NYCHA WSJURA Brownstones	13-6400434	NYCHA	(\$1,000)	098	002		
Brewer	New York City Housing Authority - WSJURA Brownstones	13-6400434	NYCHA	\$1,000	098	002		
Palma	New York City Housing Authority	13-6400434	NYCHA	(\$12,000)	098	002		
Palma	New York City Housing Authority - Bronx River Development	13-6400434	NYCHA	\$12,000	098	002		
Palma	New York City Housing Authority - Sozmagor Development	13-6400434	NYCHA	\$1,800	098	002		
Palma	New York City Housing Authority - Sozmagor Development	13-6400434	NYCHA	\$1,800	098	002		
Palma	New York City Housing Authority - Chason Point Development	13-6400434	NYCHA	\$1,000	098	002		
Palma	New York City Housing Authority - Glebe Development	13-6400434	NYCHA	\$1,000	098	002		
Palma	New York City Housing Authority - James Monroe Development	13-6400434	NYCHA	\$1,500	098	002		
Palma	New York City Housing Authority - Slack Worn Development	13-6400434	NYCHA	\$1,000	098	002		
Palma	New York City Housing Authority - Stuyvesant Development	13-6400434	NYCHA	\$1,000	098	002		
Recchia	Station Island Supports Our Soldiers Center**	DYCD	DYCD	(\$5,000)	040	454		
Recchia	Station Island Supports Our Soldiers Center**	DYCD	DYCD	\$5,000	260	005		
Fidler	Caribbean American Center of New York, Inc.	13-3443781	DYCD	(\$2,500)	260	005		
Fidler	Caribbean American Center of New York, Inc.	13-3443781	DYCD	\$2,500	260	312		
Mealy	Dentim Kids, Inc.	45-2932749	DYCD	(\$3,500)	260	312		
Mealy	Neighborhood Technical Assistance Clinic	11-3482054	DYCD	\$3,500	260	005		

* Indicates pending completion of pre-qualification review.
 ** Requires a budget modification for the changes to take effect

CHART 3: Youth Initiatives - Fiscal 2014

Member	Organization	EIN Number	Agency	Amount	Agy #	UJA	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN *
Gentile	Brooklyn Aquarium Society, Inc.	11-2461838	DYCD	(\$2,000)	260	312		
Gentile	Brooklyn Aquarium Society, Inc.	11-2461838	DYCD	\$2,000	260	312	Bay Ridge Bayside Beautification and Preservation Alliance, Inc.	11-3232323

* Indicates pending completion of pre-qualification review.

CHART 2: Aging Initiatives - Fiscal 2014

Member	Organization	EIN Number	Agency	Amount	Agy #	UJA	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN *
Gentile	Lutheran Family Health Center's Family Support Center	11-1839567	DFTA	(\$4,000)	125	003		
Gentile	Sunset Park Health Council c/b/a Lutheran Family Health Centers	11-1839567	DFTA	\$4,000	125	003		
Dorrm	Jackson Heights-Elmhurst-Kohlihan, Inc.	11-2648410	DFTA	(\$5,000)	125	003		
Dorrm	Midtown Management Group, Inc., The	13-3192793	DFTA	\$5,000	125	003		
Mealy	Shannon T. Brailhwell, Inc.	26-4085306	DYCD	(\$5,000)	260	312		
Mealy	(Inc.)	11-2778372	DYCD	\$5,000	260	312		

* Indicates pending completion of pre-qualification review.

CHART 4: Social Adult Day Care Programs - Fiscal 2014

Organization	EIN Number	Agency	Amount	Agy #	UJA
Lutheran Family Health Center's Family Support Center	11-1839567	DFTA	(\$50,000.00)	125	003
Sunset Park Health Council c/b/a Lutheran Family Health Centers	11-1839567	DFTA	\$50,000.00	125	003

* Indicates pending completion of pre-qualification review.

CHART 6: YMCA After-School Program - Fiscal 2014

Organization	EIN Number	Agency	Amount	Agy #	UJA *
Young Mens Christian Association of Greater New York	11-2030172	DYCD	(\$30,000.00)	260	312
Young Mens Christian Association of Greater New York	13-1624228	DYCD	\$30,000.00	260	312

* Indicates pending completion of pre-qualification review.

CHART 5: Domestic Violence and Empowerment (DoVE) Initiative - Fiscal 2014

Organization	EIN Number	Agency	Amount	Agy #	UJA *
Lutheran Family Health Center's Family Support Center	11-1639567	OCJC	(\$21,875.00)	098	002
Sunset Park Health Council d/b/a Lutheran Family Health Centers	11-1639567	OCJC	\$21,875.00	098	002

* Indicates pending completion of pre-qualification review.

CHART 8: Asthma Control Program - Fiscal 2014

Organization	EIN Number	Agency	Amount	Agy #	UJA *
Department of Health and Mental Hygiene	13-6400434	DOHMH	(\$100,000.00)	816	113
Department of Health and Mental Hygiene	13-6400434	DOHMH	(\$100,000.00)	816	113
Department of Health and Mental Hygiene - IPM - Pest at Rest	13-6400434	DOHMH	\$20,000.00	816	113
Department of Health and Mental Hygiene - IPM - Verazano	13-6400434	DOHMH	\$50,000.00	816	113
Department of Health and Mental Hygiene - HHC Lincoln	13-6400434	DOHMH	\$65,000.00	816	113
Department of Health and Mental Hygiene - HHC Woodhull	13-6400434	DOHMH	\$65,000.00	816	113
Long Island College Hospital	11-1018995	DOHMH	(\$55,500.00)	816	113
Research Foundation of SUNY	14-1966381	DOHMH	\$55,500.00	816	113
Department of Health and Mental Hygiene	13-6400434	DOHMH	(\$78,000.00)	816	113
Department of Health and Mental Hygiene - American Lung Association	13-6400434	DOHMH	\$78,000.00	816	113

* Indicates pending completion of pre-qualification review.

CHART 7: Out of School Time Restoration - Fiscal 2014

Organization	EIN Number	Agency	Amount	Agy #	UJA *
Brooklyn Community Services - P.S. 306 ETHAN ALLEN SCHOOL (MS)	11-1630760	DYCD	(\$40,000.00)	260	312
Brooklyn Community Services - PS 021 CRISPUS ATTUCKS (K021)	11-1630760	DYCD	\$40,000.00	260	312
Brooklyn Community Services - Public School 156	11-1630760	DYCD	(\$218,000.00)	260	312
Brooklyn Community Services - IS 392	11-1630760	DYCD	\$39,000.00	260	312
Department of Youth and Community Development	13-6400434	DYCD	\$179,000.00	260	312

* Indicates pending completion of pre-qualification review.

CHART 10: Design Week Initiative - Fiscal 2014

Organization	EIN Number	Agency	Amount	Agr #	U/A
Department of Cultural Affairs	13-6400434	DCLA	(\$100,000.00)	126	003
American Institute of Graphic Arts - NY Chapter, Inc., The - NYC/DESIGN	13-3394302	DCLA	\$100,000.00	126	003

* Indicates pending completion of pre-qualification review.

CHART 9: HIV/AIDS Faith Based Initiative - Fiscal 2014

Organization	EIN Number	Agency	Amount	Agr #	U/A
First Calvary Baptist Church	13-2945426	DOHMH	(\$6,400.00)	816	112
St. Matthew's Baptist Church	13-3211559	DOHMH	\$6,400.00	816	112

* Indicates pending completion of pre-qualification review.

CHART 12: Initiative Funding Changes - Fiscal 2014

Source	Organization	EIN Number	Agency	Amount	Agr #	U/A
Child Care Vouchers	Administration for Childrens Services	13-6400434	ACS	(\$1,149,455.00)	068	004
School Based Health Centers - PEG Restoration	Department of Health and Mental Hygiene	13-6400434	DOHMH	(\$38,000.00)	816	113
Discretionary Child Care	Tabernacle Church of God Day Care Center (34-52 Kosluszko Street)	11-2224258	ACS	\$637,455.00	068	004
Discretionary Child Care	Tremont Crotona Day Care	13-2724087	ACS	\$275,000.00	068	004
Immunization Clinics	Department of Health and Mental Hygiene **	13-6400434	DOHMH	\$200,000.00	816	112
Local	Trustees Of Columbia University In The City Of New York - Harlem Health Promotion Center **	13-5598033	DOHMH	\$75,000.00	816	117
Local	92nd Street Y (Young Men's and Young Women's Hebrew Association) **	13-1624229	DYCD	\$100,000.00	280	312

* Indicates pending completion of pre-qualification review.

CHART 11: Senior Centers and Programs Restoration - Fiscal 2014

Organization	EIN Number	Agency	Amount	Agr #	U/A
Presbyterian Senior Center	13-1981482	DFTA	(\$5,000.00)	125	003
Lifestyles for the Disabled, Inc.	13-3740011	DFTA	\$5,000.00	125	003

* Indicates pending completion of pre-qualification review.

CHART 13: Youth Initiatives - Fiscal 2010

Member	Organization	EIN Number	Agency	Amount	Agry #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN
Jackson	Centro Juvenil Rafael Tony Fernandez, Inc.	13-3702657	DYCD	(2,000.00)	260	312	Armony Foundation, The	13-3802286
Jackson	Centro Juvenil Rafael Tony Fernandez, Inc.	13-3702657	DYCD	\$2,000.00	260	312		

* Indicates pending completion of pre-qualification review.

CHART 14: Purpose of Funds Changes - Fiscal 2014

Source	Member	Organization	EIN Number	Agency	Amount	New Purpose of Funds
Local	Recchia	Legal Services NYC - Staten Island Legal Services	13-2600199	DYCD	(1,000.00)	To support a South Brooklyn Legal Services-led program to assist victims of domestic violence with orders of protection cases, custody/visitation, child/spousal support, matrimonial, immigration, government benefits, and myriad other legal issues.
Local	Recchia	Legal Services NYC - Staten Island Legal Services	13-2600199	DYCD	\$10,000.00	To support a Staten Island Legal Services-led program to assist victims of domestic violence with orders of protection cases, custody/visitation, child/spousal support, matrimonial, immigration, government benefits, and myriad other legal issues.
Youth	Cabrera	Mikori Foundation, Inc. The (d/b/a Mikori and Friends)	13-3868472	DYCD	(16,000.00)	To provide for music and cultural education programs at PS 64X PS 70X, and PS 70X, including the Making Music guitar instruction program at PS 64X & PS 70X, guitar instruction program at PS 310X and Exploring Cultures programs at all three schools. Funds will be used to support a community-based program for PS 310X, including workshops and performances at PS 70X, PS 310X Lab School and the School for Environmental Citizenship.
Youth	Cabrera	Mikori Foundation, Inc. The (d/b/a Mikori and Friends)	13-3868472	DYCD	\$10,000.00	To provide for music and cultural education programs at PS 64X PS 70X, and PS 70X, including the Making Music guitar instruction program at PS 64X & PS 70X, guitar instruction program at PS 310X and Exploring Cultures programs at all three schools. Funds will be used to support a community-based program for PS 310X, including workshops and performances at PS 70X, PS 310X Lab School and the School for Environmental Citizenship.
Local	Brewer	Committee for Environmentally Sound Development	13-3881914	DYCD	(63,500.00)	Funds will be used for the publication of a newsletter to highlight environmental issues in the neighborhood. In particular damage to Damrosch Park.
Local	Brewer	Committee for Environmentally Sound Development	13-3881914	DYCD	\$3,000.00	Funds will be used for publication of a newsletter to highlight environmental issues in the neighborhood. In particular damage to Damrosch Park as a result of Superstorm Sandy.
Boro	Ulrich	Mikori Foundation, Inc. The (d/b/a Mikori and Friends)	13-3868472	DOE	(62,867.00)	Funds used to continue to offer Making Music guitar instruction program at PS 232Q, and our Exploring Cultures program at PS 232Q and PS 207Q.
Boro	Ulrich	Mikori Foundation, Inc. The (d/b/a Mikori and Friends)	13-3868472	DOE	\$2,867.00	Funds will be used to continue to offer Making Music guitar instruction program at PS 232Q, and our Exploring Cultures program at PS 232Q and PS 207Q.
Youth	Ulrich	Mikori Foundation, Inc. The (d/b/a Mikori and Friends)	13-3868472	DYCD	(16,714.00)	Funds used to continue to offer Making Music guitar instruction program at PS 232Q, and our Exploring Cultures program at PS 232Q.
Youth	Ulrich	Mikori Foundation, Inc. The (d/b/a Mikori and Friends)	13-3868472	DYCD	\$16,714.00	Funds will be used to continue to offer Making Music guitar instruction program at PS 232Q, and our Exploring Cultures program at PS 232Q.
Local	Crowley	Bobb and the Strays, Inc.	11-3444286	DYCD	(65,000.00)	To provide education for children and adults on animal care and abuse, to support a spay/neuter program, support the operation of the shelter and provide other care for animals.
Local	Crowley	Bobb and the Strays, Inc.	11-3444286	DYCD	\$5,000.00	Funding is used for a consultant contract to provide medical / veterinary procedure needs for an animal protection, and spay / neutering service open to all residents of Queens.
Local	Eugene	Diapora Community Services, Inc.	11-3122296	DOHMH	(66,000.00)	Diapora provides programmatic support for the Internal Group Home for runaway and homeless youth.
Local	Eugene	Diapora Community Services, Inc.	11-3122296	DOHMH	\$6,000.00	To provide programmatic support for the Tech for the Future program, an employment/mentoring program for young men ages 16-26 who are unemployed or underemployed in the NYC area (i.e., job training, job placement, equipment, program and office supplies (i.e. laptops, software).
Local	GC	New York Women's Chamber of Commerce, Inc.	14-1846951	DSBS	(50,000.00)	The purpose is to provide business development services and training to small businesses and microenterprises in Upper Manhattan and New York City.
Local	GC	New York Women's Chamber of Commerce, Inc.	14-1846951	DSBS	(50,000.00)	The purpose is to provide business development services and training to small businesses and microenterprises in Upper Manhattan and New York City.
Local	GC	New York Women's Chamber of Commerce, Inc.	14-1846951	DSBS	\$20,000.00	The purpose is to provide business development services and training to small businesses and microenterprises in Upper Manhattan and New York City.

* Indicates pending completion of pre-qualification review.

CHART 14: Purpose of Funds Changes - Fiscal 2014 (Continued)

Source	Member	Organization	EIN Number	Agency	Amount	New Purpose of Funds
Local	Lappin	Public School 183M	13-6400434	DOE	(85,000.00)	Funds will be used for the required anti-phish software Mac laptops.
Local	Lappin	Public School 183M	13-6400434	DOE	\$5,000.00	Funds will be used for the required anti-phish software Mac laptops.
Local	Lappin	Public School 267M - East Side Elementary School	13-6400434	DOE	(15,000.00)	Funds will be used to support enrichment programs, such as art and music classes and funding for library books.
Local	Lappin	Public School 267M - East Side Elementary School	13-6400434	DOE	\$15,000.00	Funds will be used to support enrichment programs, such as art and music classes and funding for library books.
Local	Lappin	Public School 268M - The New School	13-6400434	DOE	(15,000.00)	Funds will be used to support professional development for staff.
Local	Lappin	Public School 268M - The New School	13-6400434	DOE	\$15,000.00	Funds will be used to support professional development for staff.
Local	Lappin	Public School 267M	13-6400434	DOE	(15,000.00)	Funds will be used to support enrichment programs, such as chess, art, and music.
Local	Lappin	Public School 267M	13-6400434	DOE	\$15,000.00	Funds will be used to support enrichment programs, such as chess, art, and music.
Local	Jackson	Board For The Education Of People Of African Ancestry, Inc.	13-3604037	DYCD	(83,000.00)	Funds will support workshops and lectures, an annual Dr. John Henrik Clarke Celebration and a Memorial Celebration.
Local	Jackson	Board For The Education Of People Of African Ancestry, Inc.	13-3604037	DYCD	\$3,000.00	With the acquisition of requested funds, BEPAA will continue to host its Annual Dr. John Henrik Clarke Celebration and lectures, an annual Dr. John Henrik Clarke Celebration and a Memorial Celebration. We will also host our Annual Kwanzaa Event with professional entertainment, drummers, poets and speakers from within the community. Other expenses may include: part-time Coordinator/bookkeeper, utilities, postage, reproduction of program materials, videography and advertising.
Local	Jackson	Broadway Housing Communities, Inc.	13-3212867	DYCD	(85,000.00)	Funds will support cultural arts programs including exhibits by local artists by producing postcards and catalogs, transportation of artwork and an opening reception.
Local	Jackson	Broadway Housing Communities, Inc.	13-3212867	DYCD	\$5,000.00	Funding will assist in the production of postcards and catalogs for the 12 annual exhibits. Funds also help transportation art work and defray the cost of snacks and refreshments during gallery open houses.
Local	Jackson	Community Assisted Tenant Controlled Housing, Inc.	13-3708659	HPD	(84,000.00)	Funds will be used to support participation of residents in CATCH's 13 affordable buildings in Central Harlem and Manhattanville. All buildings operate under the mutual housing association model with residents elected to both individual building associations and portfolio-wide board of directors. CATCH provides asset and affordable housing association and board meetings to coordinate major renovations, answer regulatory questions, and advise residents how to connect with elected officials and government services. As a result the residents will benefit from improved building conditions, increased compliance, and better responsiveness to individual resident needs.
Local	Jackson	Community Assisted Tenant Controlled Housing, Inc.	13-3708659	HPD	\$4,000.00	Funds will be used to support participation of residents in CATCH's 13 affordable buildings in Central Harlem and Manhattanville. All buildings operate under the mutual housing association model with residents elected to both individual building associations and portfolio-wide board of directors. CATCH provides asset and affordable housing association and board meetings to coordinate major renovations, answer regulatory questions, and advise residents how to connect with elected officials and government services. As a result the residents will benefit from improved building conditions, increased compliance, and better responsiveness to individual resident needs.
Local	Jackson	Manhattan Community Board #12	13-6400434	MNCB	(5,000.00)	Funds will support the Community Board's operations and workshops.
Local	Jackson	Manhattan Community Board #12	13-6400434	MNCB	\$1,000.00	The purpose of the funding allocated by Councilmember Jackson is for translation services, any left over fund at the end of the fiscal year are use for office supply.

* Indicates pending completion of pre-qualification review.

CHART 14: Purpose of Funds Changes - Fiscal 2014 (Continued)

Source	Member	Organization	EIN Number	Agency	Amount	New Purpose of Funds
Local	Dickens	American Legion Colonel Charles Young Post #398	13-6272129	DYCD	(83,500.00)	To provide youth recreational, sports, cultural and leadership activities for children of veterans and their families within the served community.
Local	Dickens	American Legion Colonel Charles Young Post #398	13-6272129	DYCD	\$3,500.00	Our core program include leadership development, service learning, and mentoring opportunities, such as tutoring services, and programs that encourage reading and writing. We also provide leadership training for young adults. Our youth families and communities in their effort to promote safe, drug-free youth. Our youth development is about building a world in which youth and adults learn, grow, and work together as catalysts for positive change.
Local	Crowley	Feathered Friends Parrot Adoption Services, Inc.	20-181209	DYCD	(62,000.00)	To shelter, harbor and rescue birds in the Order Palaeognathae (parrots) and place parrots for adoption into qualified homes, and to provide educational and scientific information to the public.
Local	Crowley	Feathered Friends Parrot Adoption Services, Inc.	20-181209	DYCD	\$2,000.00	pay for the Veterinary Services and to buy new cages, food for the birds, printing and postage cover the cost of the Veterinary Services and for General Administrative and Operating program Expenses
Aging	Dnorm	Elmore Youth Adult Activities, Inc.	11-2224539	DFTA	(85,000.00)	For the enhancement of services through physical health, education recreation, arts culture, activities and training seminars, as well as, space costs, that will benefit healthy benefit health living for all seniors. Funds will also be used for health software and frequent trips that promote socialization.
Aging	Dnorm	Elmore Youth Adult Activities, Inc.	11-2224539	DFTA	\$5,000.00	To create a community of collaborative resources and services towards an improved community environment, as it relates to alcohol, tobacco and other drugs. (AFOC). A portion of the funds will be used to cover printing stationary, business cards, mailings and flyers.
Youth	Arroyo	Sports Foundation, Inc.	13-2633886	DYCD	(13,000.00)	The funds that were being requested would allow Sports Foundation, Inc. to offset the cost of the equipment needed to support the program in eliminating or abstaining underequipped drinking, tobacco, gambling or other drug usage.
Youth	Arroyo	Sports Foundation, Inc.	13-2633886	DYCD	\$13,000.00	The funds that were being requested would allow Sports Foundation, Inc. to offset the cost of the equipment needed to support the program in eliminating or abstaining underequipped drinking, tobacco, gambling or other drug usage.
Local	Lappin	Eleanor Roosevelt High School	13-6400434	DOE	(85,000.00)	Funds will be used for STEM science equipment and cameras.
Local	Lappin	Eleanor Roosevelt High School	13-6400434	DOE	(85,000.00)	Funds will be used for STEM science equipment and cameras.
Local	Lappin	Public School 151M - Yorkville Community School	13-6400434	DOE	\$10,000.00	Funds will be used to support enrichment programs, such as art and music classes.
Local	Lappin	Public School 151M - Yorkville Community School	13-6400434	DOE	\$10,000.00	Funds will be used to support enrichment programs, such as art and music classes.
Local	Lappin	Public School 158M - Bayard Taylor School	13-6400434	DOE	(85,000.00)	Funds will be used to support the maintenance for the technology at the school.
Local	Lappin	Public School 158M - Bayard Taylor School	13-6400434	DOE	\$5,000.00	Funds will be used to support the maintenance for the technology at the school.

* Indicates pending completion of pre-qualification review.

CHART 14 : Purpose of Funds Changes - Fiscal 2014 (Continued)

Source	Member	Organization	EIN Number	Agency	Amount	New Purpose of Funds
Youth	Recchia	Italian Board of Guardians	11-1639371	DYCD	\$20,000.00	To support bilingual English-Italian mental health counseling program, after school tutoring/mentoring, and at home companionship for the elderly.
Youth	Recchia	Italian Board of Guardians	11-1639371	DYCD	\$20,000.00	To support after school tutoring/mentoring of children and the overall running of the organization.
Local	Recchia	Mekini	56-0870419	DYCD	\$3,000.00	To provide recreational programs, outings and other activities for young patients who are ill and their family members, and to provide training for volunteers in the program.
Local	Recchia	Mekini	56-0870419	DYCD	\$3,000.00	To provide therapeutic events for young patients and their family members. Also will provide support for young patients who are ill and their family members. The program will provide support for young patients who are ill and their family members. The program will provide support for young patients who are ill and their family members. The program will provide support for young patients who are ill and their family members.
Local	Recchia	St. Athanasia Golden Age Club	11-1639837	DFTA	\$3,000.00	To support the Golden Age club, a weekly meeting place for seniors to gather, learn about senior issues, and engage in other meals, celebrations and activities.
Local	Recchia	St. Athanasia Golden Age Club	11-1639837	DFTA	\$3,000.00	The program provides a weekly meeting place for seniors to gather with peers in a safe and supportive environment. Activities include games, refreshments, entertainment, table games, lectures and information on senior issues.
Youth	Recchia	Our Lady of Grace Roman Catholic Church	11-1694947	DYCD	\$30,000.00	To support the upkeep and operations of a food pantry for low income individuals and families.
Youth	Recchia	Our Lady of Grace Roman Catholic Church	11-1694947	DYCD	\$30,000.00	To support the upkeep and operations of a food pantry in helping to feed children in need and their families.
Local	Recchia	Staten Island Hispanic Chamber of Commerce, Inc.	45-2043890	DOE	\$4,000.00	Our outreach programs including business incubators, voter registration drives, MBE and WBE loan facilitation and provisions of business resources to the community.
Local	Recchia	Staten Island Hispanic Chamber of Commerce, Inc.	45-2043890	DOE	\$4,000.00	Our outreach programs including business incubators, voter registration drives, MBE and WBE loan facilitation and provisions of business resources to the community.
Local	Recchia	Staten Island Supports Our Soldiers Center		DOE	\$8,000.00	To support veteran programs throughout the year including helping veterans in need and their families during the holiday season. Providing meals veteran families in dire need throughout the year.
Local	Recchia	Salt and Sea Mission	11-3072147	DYCD	\$5,000.00	To provide nutritional foods for low income families.
Local	Recchia	Salt and Sea Mission	11-3072147	DYCD	\$5,000.00	At the food pantry we feed approximately 3,500 people monthly. We are open every Tuesday and Thursday from 10:00am to 2:00pm. We provide fresh produce, toiletries, baby and household items. All items are available to all. Other vital initiatives include drug and alcohol counseling and a detoxification program, as well as HIV/AIDS, entitlements, and social service housing advocacy.
Local	Recchia	South Shore Little League	13-3684372	DYCD	\$5,000.00	The money will be used to maintain the field and baseball playing area for the little league program.
Local	Recchia	South Shore Little League	13-3684372	DYCD	\$5,000.00	The money will be used to maintain the field and baseball playing area for the little league program.

* Indicates pending completion of pre-qualification review.

CHART 14 : Purpose of Funds Changes - Fiscal 2014 (Continued)

Source	Member	Organization	EIN Number	Agency	Amount	New Purpose of Funds
Local	Jackson	Manhattan Community Board #9	13-640034	MNCS	\$1,700.00	Funds will support the Community Board's operations and workshops. The purpose of Manhattan Community Board 9 (MCB9) is to ensure that City services are accessible and responsive to the needs of all residents, organizations, businesses, and institutions in West Harlem. Funds will help support our membership that will be needed to provide assistance to various committees on a number of diverse community based projects from different committees of the community board.
Local	Jackson	Manhattan Community Board #9	13-640034	MNCS	\$1,700.00	Funds will support the Community Board's operations and workshops. The purpose of Manhattan Community Board 9 (MCB9) is to ensure that City services are accessible and responsive to the needs of all residents, organizations, businesses, and institutions in West Harlem. Funds will help support our membership that will be needed to provide assistance to various committees on a number of diverse community based projects from different committees of the community board.
Local	Palma	Department of Parks and Recreation	13-640034	DPR	\$5,000.00	Funding will be used for Manager Wegans.
Local	Palma	Department of Parks and Recreation	13-640034	DPR	\$5,000.00	Funding will be used for Manager Wegans.
Local	Palma	Department of Transportation	13-640034	DOT	\$5,000.00	Funding will be used for bike safety events.
Local	Palma	Department of Transportation	13-640034	DOT	\$5,000.00	Funding will be used for bike safety events.
Youth	Richards	Roosevelt Job Football Association, Inc.	11-3401935	DYCD	\$8,744.00	The requested funds will be used to defray the cost of football camp as well as transportation to and from camp.
Youth	Richards	Roosevelt Job Football Association, Inc.	11-3401935	DYCD	\$8,744.00	The requested funds will be used to defray the cost of football camp as well as transportation to and from camp.
Local	Vivitho	Community Voices Heard	13-3801997	DYCD	\$20,000.00	To support Public Housing Campaign in working to increase public housing resident participation in the public housing budget and meetings of residents to increase education about the public housing budget and meetings of residents to increase resident participation in decisions concerning governance within their developments. As part of this activity, residents will participate in trainings focused on education about housing regulations and organizing/leadership development trainings.
Local	Vivitho	Community Voices Heard	13-3801997	DYCD	\$20,000.00	To support Public Housing Campaign in working to increase public housing resident participation in the public housing budget and meetings of residents to increase education about the public housing budget and meetings of residents to increase resident participation in decisions concerning governance within their developments. As part of this activity, residents will participate in trainings focused on education about housing regulations and organizing/leadership development trainings.

* Indicates pending completion of pre-qualification review.

CHART 14 : Purpose of Funds Changes - Fiscal 2014 (Continued)

Source	Member	Organization	EIN Number	Agency	Amount	New Purpose of Funds
Local	Recchia	United Military Veterans of Kings County	45-3795877	DOE	\$10,000.00	The money will be used to pay the bonds that participate in the annual parade.
Local	Recchia	United Military Veterans of Kings County	45-3795877	DOE	\$10,000.00	The money will be used to pay the bonds that participate in the annual parade.
Local	Recchia	Coney Island Cathedral of Deliverance	11-2744627	DFTA	\$4,000.00	The funds will be used to supply lunches as well as arts and crafts for attendees.
Local	Recchia	Coney Island Cathedral of Deliverance	11-2744627	DFTA	\$4,000.00	The funds will be used to supply lunches as well as arts and crafts for attendees.
Local	Recchia	Friends Of Abandoned Cemeteries Inc.	13-378456	DYCD	\$3,000.00	To educate the public and provide for the continued care, and maintenance of abandoned Staten Island cemeteries. The funds will be used to support and pay for staffing.
Local	Recchia	Friends Of Abandoned Cemeteries Inc.	13-378456	DYCD	\$3,000.00	To educate the public and provide for the continued care, and maintenance of abandoned Staten Island cemeteries. The funds will be used to support and pay for staffing.
Local	Chin	Museum of Jewish Heritage	13-376285	DYCD	\$3,500.00	Requested funds would support education programs at the museum for public school students including tours of our Core Exhibition, innovative curriculum, pre- and post-visit activities and different program styles. It would also support professional development seminars for classroom teachers and an internship for high school students and reduced group visits to the museum.
Local	Chin	Museum of Jewish Heritage	13-376285	DYCD	\$3,500.00	Requested funds would support education programs at the museum for public school students including tours of our Core Exhibition, innovative curriculum, pre- and post-visit activities and different program styles. It would also support professional development seminars for classroom teachers and an internship for high school students and reduced group visits to the museum.
Local	Cabrera	Mi Primo Herencia	25-0292648	DYCD	\$3,000.00	To host an annual parade in the Bronx.
Local	Cabrera	Mi Primo Herencia	25-0292648	DYCD	\$3,000.00	To host an annual parade in the Bronx.
Local	Cabrera	Kingsbridge Heights Neighborhood Improvement Association, Inc.	13-326868	HPD	\$3,500.00	To provide counseling, referrals, meeting with tenant groups and mailings through HPD.
Local	Cabrera	Kingsbridge Heights Neighborhood Improvement Association, Inc.	13-326868	HPD	\$3,500.00	To provide counseling, referrals, meeting with tenant groups and mailings through HPD.
Local	Comis	Museum of Jewish Heritage	13-376285	DYCD	\$3,500.00	To support programming and operating costs of the Museum's exhibitions.
Local	Comis	Museum of Jewish Heritage	13-376285	DYCD	\$3,500.00	To support programming and operating costs of the Museum's exhibitions.
Aging	Lander	American-Italian Coalition of Organizations, Inc.	11-2488439	DFTA	\$2,250.00	To provide information, referral and case assistance services to seniors and disabled individuals and their families at program sites in Canal Gardens.
Aging	Lander	American-Italian Coalition of Organizations, Inc.	11-2488439	DFTA	\$2,250.00	To provide information, referral and case assistance services to seniors and disabled individuals and their families at program sites in Canal Gardens.
Aging	Lander	American-Italian Coalition of Organizations, Inc.	11-2488439	DFTA	\$2,750.00	To support information, referral and case assistance services to seniors and disabled individuals and their families at program sites in Canal Gardens.
Aging	Lander	American-Italian Coalition of Organizations, Inc.	11-2488439	DFTA	\$2,750.00	To support information, referral and case assistance services to seniors and disabled individuals and their families at program sites in Canal Gardens.
Local	Rivera	Morris Park Community Association	25-7429900	DYCD	\$10,000.00	The Bronx Columbus Day Parade is an annual cultural event that is being held for the first time in the area. After Hurricane Sandy we have provided some meals and to children and adults. The funds will be used to pay for marching bands, floats and to pay for transportation expenses for the marching bands.
Local	Rivera	Morris Park Community Association	25-7429900	DYCD	\$10,000.00	The Bronx Columbus Day Parade is an annual cultural event that is being held for the first time in the area. After Hurricane Sandy we have provided some meals and to children and adults. The funds will be used to pay for marching bands, floats and to pay for transportation expenses for the marching bands.
Local	Recchia	Coney Island Gospel Assembly	51-0742296	DYCD	\$20,000.00	The money will be used to provide for a specific after-school program that prepares the youth for the workforce. The program is provided in a medical lab constructed by the school including a location where the children can perform experiments and learn more about science.
Local	Recchia	Coney Island Gospel Assembly	51-0742296	DYCD	\$20,000.00	The money will be used to provide for a specific after-school program that prepares the youth for the workforce. The program is provided in a medical lab constructed by the school including a location where the children can perform experiments and learn more about science.
Local	Recchia	Elite High School	78-0798993	DYCD	\$5,000.00	The money will be used to provide for a specific after-school program that prepares the youth for the workforce. The program is provided in a medical lab constructed by the school including a location where the children can perform experiments and learn more about science.
Local	Recchia	Elite High School	78-0798993	DYCD	\$5,000.00	The money will be used to provide for a specific after-school program that prepares the youth for the workforce. The program is provided in a medical lab constructed by the school including a location where the children can perform experiments and learn more about science.

* Indicates pending completion of pre-qualification review.

CHART 14 : Purpose of Funds Changes - Fiscal 2014 (Continued)

Source	Member	Organization	EIN Number	Agency	Amount	New Purpose of Funds
Local	Recchia	United Military Veterans of Kings County	45-3795877	DOE	\$10,000.00	The money will be used to pay the bonds that participate in the annual parade.
Local	Recchia	United Military Veterans of Kings County	45-3795877	DOE	\$10,000.00	The money will be used to pay the bonds that participate in the annual parade.
Local	Recchia	Coney Island Cathedral of Deliverance	11-2744627	DFTA	\$4,000.00	The funds will be used to supply lunches as well as arts and crafts for attendees.
Local	Recchia	Coney Island Cathedral of Deliverance	11-2744627	DFTA	\$4,000.00	The funds will be used to supply lunches as well as arts and crafts for attendees.
Local	Recchia	Friends Of Abandoned Cemeteries Inc.	13-378456	DYCD	\$3,000.00	To educate the public and provide for the continued care, and maintenance of abandoned Staten Island cemeteries. The funds will be used to support and pay for staffing.
Local	Recchia	Friends Of Abandoned Cemeteries Inc.	13-378456	DYCD	\$3,000.00	To educate the public and provide for the continued care, and maintenance of abandoned Staten Island cemeteries. The funds will be used to support and pay for staffing.
Local	Chin	Museum of Jewish Heritage	13-376285	DYCD	\$3,500.00	Requested funds would support education programs at the museum for public school students including tours of our Core Exhibition, innovative curriculum, pre- and post-visit activities and different program styles. It would also support professional development seminars for classroom teachers and an internship for high school students and reduced group visits to the museum.
Local	Chin	Museum of Jewish Heritage	13-376285	DYCD	\$3,500.00	Requested funds would support education programs at the museum for public school students including tours of our Core Exhibition, innovative curriculum, pre- and post-visit activities and different program styles. It would also support professional development seminars for classroom teachers and an internship for high school students and reduced group visits to the museum.
Local	Cabrera	Mi Primo Herencia	25-0292648	DYCD	\$3,000.00	To host an annual parade in the Bronx.
Local	Cabrera	Mi Primo Herencia	25-0292648	DYCD	\$3,000.00	To host an annual parade in the Bronx.
Local	Cabrera	Kingsbridge Heights Neighborhood Improvement Association, Inc.	13-326868	HPD	\$3,500.00	To provide counseling, referrals, meeting with tenant groups and mailings through HPD.
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Local	Comis	Museum of Jewish Heritage	13-376285	DYCD	\$3,500.00	To support programming and operating costs of the Museum's exhibitions.
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Aging	Lander	American-Italian Coalition of Organizations, Inc.	11-2488439	DFTA	\$2,250.00	To provide information, referral and case assistance services to seniors and disabled individuals and their families at program sites in Canal Gardens.
Aging	Lander	American-Italian Coalition of Organizations, Inc.	11-2488439	DFTA	\$2,250.00	To provide information, referral and case assistance services to seniors and disabled individuals and their families at program sites in Canal Gardens.
Aging	Lander	American-Italian Coalition of Organizations, Inc.	11-2488439	DFTA	\$2,750.00	To support information, referral and case assistance services to seniors and disabled individuals and their families at program sites in Canal Gardens.
Aging	Lander	American-Italian Coalition of Organizations, Inc.	11-2488439	DFTA	\$2,750.00	To support information, referral and case assistance services to seniors and disabled individuals and their families at program sites in Canal Gardens.
Local	Rivera	Morris Park Community Association	25-7429900	DYCD	\$10,000.00	The Bronx Columbus Day Parade is an annual cultural event that is being held for the first time in the area. After Hurricane Sandy we have provided some meals and to children and adults. The funds will be used to pay for marching bands, floats and to pay for transportation expenses for the marching bands.
Local	Rivera	Morris Park Community Association	25-7429900	DYCD	\$10,000.00	The Bronx Columbus Day Parade is an annual cultural event that is being held for the first time in the area. After Hurricane Sandy we have provided some meals and to children and adults. The funds will be used to pay for marching bands, floats and to pay for transportation expenses for the marching bands.
Local	Recchia	Coney Island Gospel Assembly	51-0742296	DYCD	\$20,000.00	The money will be used to provide for a specific after-school program that prepares the youth for the workforce. The program is provided in a medical lab constructed by the school including a location where the children can perform experiments and learn more about science.
Local	Recchia	Coney Island Gospel Assembly	51-0742296	DYCD	\$20,000.00	The money will be used to provide for a specific after-school program that prepares the youth for the workforce. The program is provided in a medical lab constructed by the school including a location where the children can perform experiments and learn more about science.
Local	Recchia	Elite High School	78-0798993	DYCD	\$5,000.00	The money will be used to provide for a specific after-school program that prepares the youth for the workforce. The program is provided in a medical lab constructed by the school including a location where the children can perform experiments and learn more about science.
Local	Recchia	Elite High School	78-0798993	DYCD	\$5,000.00	The money will be used to provide for a specific after-school program that prepares the youth for the workforce. The program is provided in a medical lab constructed by the school including a location where the children can perform experiments and learn more about science.

* Indicates pending completion of pre-qualification review.

CHART 15 : Purpose of Funds Changes - Fiscal 2013

Source	Member	Organization	EIN Number	Agency	Amount	New Purpose of Funds
Local	Ulrich	Community Voices Heard	13-3901997	DYCD	(85,000.00)	Funds will be used to conduct outreach and public education work with public assistance recipients about their rights around welfare. This also includes educating participants around CSBA and wage and hour regulations, so that they understand when their rights are being violated when filing work requirements or when they also file. Outreach and public education work is done at welfare centers, community organizations, job centers and at CVH's office.
Local	Ulrich	Community Voices Heard	13-3901997	DYCD	\$5,000.00	Funds will be used to pay for salaries, supplies, and operating expenses for community voices heard.

* Indicates pending completion of pre-qualification review.

DOMENIC M. RECCHIA, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, December 19, 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. 1003

Report of the Committee on Finance in favor of approving Mixed Income Program, Building 1A Compass Residence, 1512 Boone Avenue Bronx, Community District No. 3 Council District No. 17.

The Committee on Finance, to which the annexed resolution was referred on December 19, 2013, respectfully

REPORTS:

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

December 19, 2013

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

Members of the Finance Committee

FROM: Nathan Toth, Finance Division

RE: Finance Committee Agenda of December 19, 2013 - Resolution approving tax exemptions for one Preconsidered Land Use Item (Council District 17)

Building 1A Compass Residence (Block 3013, Lot 29) consists of 1 building and 110 units of rental housing for low income families. The Exemption Area will be owned by MBD Compass One A Housing Development Fund Company, Inc. (the "HDFC") as legal and nominee owner and Compass One A, LLC (the "LLC") as beneficial owner. Under the project, the LLC will construct on the Exemption Area a multiple dwelling containing approximately 109 rental dwelling units for low income families plus one unit for a superintendent, and approximately 1,758 square feet of commercial space.

The referenced property ("Exemption Area") is the proposed site for the development of an affordable housing project under HPD's Mixed Income Program.

Under HPD's Mixed Income Program, sponsors construct or rehabilitate multifamily buildings in order to create affordable rental housing units with a range of affordability. Construction and permanent financing is provided through loans from private institutional lenders and from public sources including HPD, the New York City Housing Development Corporation, the State of New York, and the federal government. Additional funding may also be provided from the syndication of low-income housing tax credits. The newly constructed or rehabilitated buildings provide rental housing to families with a mix of incomes.

This project has the approval of Councilmember Arroyo.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 2096:)

Res. No. 2096

Resolution approving an exemption from real property taxes for property located at (Block 3013, Lot p/o 29) the Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No 1003).

By Council Member Recchia.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated October 28, 2013 that the Council take the following action regarding a housing project to be located at (Block 3013, p/o Lot 29) the Bronx ("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 the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HPD, HDC, and the Owner enter into the Regulatory Agreement in their respective sole discretion.

(b) "Exemption" shall mean the exemption from real property taxation provided hereunder.

- (c) "Exemption Area" shall mean the real property located on the Tax Map of the City of New York in the Borough of the Bronx, City and State of New York, identified as Block 3013, p/o Lot 29.
- (d) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (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) "HDC" shall mean the New York City Housing Development Corporation.
- (f) "HDFC" shall mean MBD Compass One A Housing Development Fund Company, Inc.
- (g) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
- (h) "LLC" shall mean Compass One A, LLC (the "LLC").
- (i) "Owner" shall mean the HDFC and the LLC or any future owner of the Exemption Area.
- (j) "Regulatory Agreement" shall mean the regulatory agreement between HPD, HDC and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.

2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any devoted to business or commercial use) shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon Expiration Date.

3. (a) Notwithstanding any provision hereof to the contrary, the exemption from real property taxation provided hereunder ("Exemption") shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) 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 (iv) the demolition or construction 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 Owner 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.

- (a) Nothing herein shall entitle the Owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

4. In consideration of the Exemption, the Owner of the Exemption Area (i) shall execute and record the Regulatory Agreement, and (ii) for so long as the Exemption shall remain in effect, shall waive the benefits 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; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G.COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, G. OLIVER KOPPELL, ALBERT VANN, DARLENE MEALY, JULISSA FERRERAS, FERNANDO CABRERA, KAREN KOSLOWITZ, JAMES G. VAN BRAMER, VINCENT M. IGNIZIO, JAMES S. ODDO; Committee on Finance, December 19, 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 Fire and Criminal Justice Services

Report for Int. No. 1174-A

Report of the Committee on Fire and Criminal Justice Services in favor of approving and adopting, as amended, a Local Law to amend the New York city fire code, in relation to the enhancement of emergency preparedness in New York city and the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code, and to amend certain provisions of the New York city charter, the New York city mechanical code and the New York city plumbing code consistent with amendments to the New York city fire code.

The Committee on Fire and Criminal Justice Services, to which the annexed amended proposed local law was referred on October 30, 2013 (Minutes, page 4482), respectfully

REPORTS:

I. BACKGROUND

On December 19, 2013, the Committee on Fire and Criminal Justice Services ("the Committee"), chaired by Council Member Elizabeth S. Crowley, will vote on Proposed Int. No. 1174-A, "A Local Law to amend the New York city fire code, in relation to the enhancement of emergency preparedness in New York city and the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code, and to amend certain provisions of the New York city charter, the New York city mechanical code and the New York city plumbing code consistent with amendments to the New York city fire code." The Committee previously considered this legislation on November 21, 2013 and received testimony from the New York City Fire Department and other interested parties. The Fire Department held a public forum on the proposed code revision on August 14, 2013.

In 2008, the Council passed Local Law No. 26 of that year, which enacted a new Fire Code for New York City effective July 1, 2008. The new Fire Code was based on the 2003 edition of the International Fire Code ("IFC"), the model fire code published by the International Code Council ("ICC"), amended to reflect New York City's unique character and existing fire safety standards and requirements. The new Fire Code requires that no later than the third year after the effective date of the new Fire Code and every third year thereafter, the Fire Commissioner review the latest edition of the IFC and submit proposed amendments to the City Council that the Commissioner determines should be made to the Fire Code based upon such model code. In accordance with this requirement, the Fire Department undertook a three-year code review process in consultation with representatives of the New York City Department of Buildings and industry, professional, trade and union organizations as well as the City Council. Proposed Int. No. 1174-A reflects proposed amendments to the Fire Code based on the 2006 and 2009 editions of the IFC, and certain portions of the 2012 IFC, as well as local initiatives.

Today, the Committee will vote on Proposed Int. No. 1174-A which includes amendments to Int. No. 1174 that were made subsequent to the November 21st hearing, detailed below.

II. INTENT OF PROPOSED INT. NO. 1174-A

According to the legislative intent section of Proposed Int. No. 1174-A, "This local law amends the New York city fire code to incorporate new fire safety standards and technologies adopted or reflected in the international fire code since the 2003 edition that was the basis for the 2008 New York city fire code. The fire code amendments enacted by this local law also reflect an evolution in thinking about the implementation of emergency preparedness requirements in a wide range of business, commercial and institutional occupancies. New emergency preparedness requirements address non-fire emergencies and coordinate plan, staffing and voice communication capabilities. These amendments will fulfill the goal of local law 26 of keeping the New York city fire code current and relevant to the fire safety challenges facing New York city."

III. HIGHLIGHTS OF PROPOSED INT. NO. 1174-A

The Administration listed several significant highlights of the proposed Fire Code in their Memorandum in Support¹ that they reiterated at the November 21st hearing, including some rationale for their implementation: Those highlights, which are still pertinent, include the following:

- The bill comprehensively amends the emergency preparedness and planning requirements of the 2008 Fire Code by repealing provisions that required a single type of fire safety plan for all buildings and occupancies, and adding more tailored requirements for fire safety plans based on building type, use, size, complexity, risk vulnerability, presence of building staff and building occupants capable of implementing an emergency preparedness plan and

voice communication capability. The bill would also require emergency preparedness and planning for non-fire emergencies, including power outages and medical emergencies, currently required only for high-rise office buildings. The office building-type fire safety and evacuation plan currently required for all occupancies would be retained only for the largest occupancies. A simplified fire and emergency preparedness plan would be required for most large occupancies, and fire and emergency preparedness guide and notices would be required for apartment buildings and dormitories. Emergency preparedness requirements would be eliminated for those occupancies, such as small, street-level storefront businesses, that are least equipped to undertake the required planning and staffing and would least benefit from such requirements.

- The bill clarifies requirements for rooftop access and obstructions. The requirements will enable the Fire Department to safely conduct firefighting and rescue operations and protect installers, maintenance personnel and other members of the public who have occasion to be present on a roof. The bill also addresses rooftop access issues arising from rooftop gardens and photovoltaic solar panel rooftop installations in a manner that promotes such rooftop use consistent with the needs of firefighting operations and important public safety purposes served by rooftop access and clear paths.
- The bill clarifies the requirements for fire apparatus access roads in private developments consistent with the interpretations and guidelines the Fire Department has adopted to address issues that have arisen since the enactment of the 2008 Fire Code. These include modifying fire apparatus access requirements for residences set back from the street; clarifying when an alteration to a building on a substandard width public street requires sprinkler protection of the building; and clarifying roadway design and parking requirements.
- The bill reduces the roadway width of a fire apparatus access road from 38 feet to 34 feet to parallel the roadway standards for newly-constructed public streets, but increases the diameter of dead-end turnarounds from 70 feet to 76 feet, while allowing an alternative turnaround of 90 feet which would allow for a 15-foot diameter island.
- To facilitate firefighting and other emergency response operations, the bill requires that entrances to apartment building dwelling units and guest rooms in hotels be identified with a room number. For multi-floor units and on unsprinklered building floors that have more than eight units, the bill requires fire emergency markings that identify the room to be displayed at the bottom of the entrance door jamb.
- The bill facilitates the use of portable liquid oxygen for medical purposes in residential and residential health care settings by allowing the storage, handling and use of oxygen containers in such occupancies without the need to obtain a permit or a certificate of fitness. The bill imposes a requirement that the person supplying oxygen to the premises provide fire safety information to the person using the oxygen.
- The bill clarifies the requirements for notification of the Fire Department and the number of fire guards required when fire protection systems are out of service.
- The bill adopts various measures designed to promote fire safety and fire safety compliance on construction sites, by clarifying fire guard, no smoking and oxygen and acetylene storage requirements, and requiring a separate fire safety manager for a building under construction when the building reaches a height of twenty stories or more than 250 feet, or has a lot coverage of 200,000 square feet or greater.
- The bill clarifies which individuals are authorized to possess a citywide standard key, which is the key required to be used to operate elevators in the fireman service mode.
- Consistent with requirements in neighboring jurisdictions, the bill promotes emergency responder safety by prohibiting the transportation of propane containers in the trunk of a passenger motor vehicle or other area of such vehicle not readily visible to emergency responders.
- The bill addresses the design, installation, operation and maintenance of battery systems to address the new technologies used to provide standby power and uninterrupted power supply in buildings.
- The bill promotes the use of clean burning renewable energy by allowing the use of hydrogen fuels in motor vehicles and industrial trucks (hi-lows).
- The bill adopts National Fire Protection Association standards for the design, installation, operation and maintenance of elevated fixed guideway transit and passenger rail systems; road tunnels, bridges and other limited access highways, and fire protection systems and other fire safety measures

at wastewater treatment and collection facilities and electric generating plants.

- The bill adopts updated editions of sixty National Fire Protection Association (NFPA) Referenced Standards, thereby promoting compliance with the most modern nationally-accepted industry standards.

IV. MODEL CODES

A model code is a document that a State or municipality may adopt in its entirety, or adopt with such modifications as it deems to be suitable. Model codes are often viewed as being advantageous because they offer contemporary and technical information from a reputable source and are kept current through review by the nationally recognized model code organization that issued the particular code. Most model codes are updated on a regular basis and developed through a review process that encourages sound practices and use of acceptable state-of-the-art technology. Even when a model code has not been adopted in a jurisdiction, architects and engineers often utilize model code parameters in their building designs, so long as they do not conflict with the applicable local code.

V. INTERNATIONAL CODE COUNCIL

The ICC was established in 1994 as a non-profit organization dedicated to developing a single set of comprehensive and coordinated national model construction codes.² Due to the evolving nature of engineering and technology, local governments rely on model codes promulgated by independent organizations, such as the ICC, to form the basis of their codes.³ Most model codes are updated on a regular basis by the code organization that issued the respective code and are usually developed through a review process that encourages sound practices and the use of acceptable state-of-the-art technology. The ICC's mission is to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment.⁴ The ICC has developed an inventory of I-Codes that include the following:

- International Fire Code
- International Building Code
- International Energy Conservation Code
- International Existing Building Code
- International Fuel Gas Code
- International Green Construction Code
- International Mechanical Code
- ICC Performance Code
- International Plumbing Code
- International Private Sewage Disposal Code
- International Property Maintenance Code
- International Residential Code
- International Swimming Pool and Spa Code
- International Wildland Urban Interface Code
- International Zoning Code

The ICC offers technical, educational and informational products and services in support of the I-Codes that it produces. These services include code application assistance, educational programs and certification programs.⁵ The ICC was formed to produce a single set of codes so that code enforcement officials, architects, engineers, designers and contractors can work with a more consistent set of requirements throughout the United States. The ICC's website states "The mission of the ICC is to provide the highest quality codes, standards, products, and services for all concerned with the safety and performance of the built environment."⁶

VI. PROPOSED INT. NO. 1174-A

Bill section 1 sets forth the legislative intent underlying enactment of the law.

Bill section 2 amends paragraphs l, m, n and o of subdivision 2 of Charter §1301, which relates to the powers of the Department of Small Business Services ("DSBS"). In conjunction with Section 3, this provision amends and clarifies the respective roles of the Fire Department and DSBS with respect to the regulation of seaplane bases and helistops.

Bill section 3 amends subdivision g of Charter §487, which relates to the powers of the Fire Department. In conjunction with Section 2, this provision amends

and clarifies the respective roles of the Fire Department and DSBS with respect to the regulation of seaplane bases and helistops.

Bill section 4 amends Chapter 4 of the Plumbing Code to add a new Section 429 that, consistent with amended Fire Code Section FC318.5, requires a rooftop hose connection to ensure that there is a water supply for rooftop gardens or landscaping.

Bill section 5 amends Section 507.16 of the Mechanical Code to eliminate the requirement that the performance test of the ventilation system for commercial cooking appliances be witnessed by a Fire Department representative to conform it with the amendment of Fire Code Section FC904.11.4, and to require instead that the test be witnessed by a special inspector.

Bill section 6 sets forth the full text of the Fire Code (as codified in Chapter 2 of Title 29 of the Administrative Code, consisting of Chapters 1 through 45 and Appendices A and B), as amended by this local law. Deletions are shown in [brackets]; new text is underlined. Most of the new text represents existing Fire Code requirements that have been reorganized, relocated and/or renumbered, and editorial corrections, not substantive changes.

Bill section 7 provides that all actions and proceedings, civil or criminal, commenced prior to the effective date of this local law in accordance with any provision repealed or relocated by this local law and pending immediately prior to the taking effect of such repeal or relocation may be prosecuted and defended to final effect in the same manner as they might if those provisions had not been repealed or relocated.

Bill section 8 provides that rules promulgated by the Fire Commissioner in accordance with the law in effect prior to the effective date of this local law shall remain in effect for the matters covered to the extent that such rules are not inconsistent with the Fire Code, as amended by this local law, unless and until such rules are amended or repealed by the Fire Commissioner. This section serves to ensure continuity of enforcement of existing rule requirements until such time as new rules or rule amendments are adopted.

Bill section 9 of the local law provides for the local law to take effect 90 days after enactment, and authorizes the Fire Commissioner to take, prior to such effective date, any actions necessary to the timely implementation of the local law, including the promulgation of rules.

VI. AMENDMENTS TO INT. NO. 1174

Section 507.16 of the New York City Mechanical Code was amended to require performance testing of commercial cooking exhaust systems be witnessed by a special inspector rather than a representative of the Fire Department. Special inspectors are licensed professional authorized to certify the results of inspections and tests required by the New York City Building Code and Mechanical Code.

Section FC 105.4(5) is amended to renumber subdivisions 6.1 and 6.2 to 5.1 and 5.2 respectively, as such subdivisions were erroneously numbered.

Section FC 2202 is renumbered as FC 2202.1 to correct the cross-reference to the definition for alcohol-blended motor fuel.

Section FC 402.1 is added to reference the definition of covered mall added to FC Chapter 4.

Section FC 307.6 is amended by changing the term “Coked” to “Coke” to correct a typographical error.

Section FC 401.3.4 is amended to clarify the meaning of this subdivision by making separate reference to building information cards and floor plans.

Section FC 401.3.6 is amended by requiring preparation and submission of a comprehensive fire safety and emergency action (Level 1) plan within 24 months (after promulgation of rules). Originally, the submission timeframe was 18 months. This amendment provides an additional six months for the preparation and submission of a comprehensive fire safety and emergency action (Level 1) plan.

Section FC 401.3.8 is amended by including lessees of tenant spaces and similar occupant spaces in order to clarify that employers of building occupants includes lessees of tenant spaces and that cooperation in the development and coordination of an emergency preparedness plan includes designation of building occupants to assist in the implementation of the plan.

Section FC 401.7.3 and FC 401.7.4 are amended to clarify that emergency preparedness drills are to be conducted in a manner that best assures participation of regular building occupants in the drills and educational activities, and that owners and employers of building occupants are to require participation of building occupants in such drills and education.

Section FC 402.1 is amended by adding the definition of “Covered Mall” and how that term is used in connection with emergency planning and preparedness provisions in FC Chapter 4, and to clarify the meaning of the term anchor store/anchor building as used in that context.

Section FC 405.2.1 is amended to reflect that references to Group R-1 residential buildings also includes Group R-1 occupancies.

Section FC 407.2.2 is amended to delete reference to specific FLS staffing and instead authorize the fire department to determine and establish the appropriate staffing for assembly occupancies through rulemaking. Additionally, FC 407.2.2 is amended to clarify that the duties of the certificate of fitness for certain FLS staff in assembly occupancies are not limited to crowd control by adopting a more suitable title for such certificate of fitness.

Section FC 407.3.2 is amended by clarifying that the duties of the certificate of fitness for certain FEP staff in assembly occupancies are not limited to crowd control by adopting a more suitable title for such certificate of fitness.

Section FC 407.5.1 relating to Group A occupancies is amended to eliminate the requirement for a rope or tape for lawful standee areas where there is a single row of standees and the locations are marked in an approved manner (such that the rope or tape are rendered unnecessary).

Section FC 413 is amended by requiring an FEP coordinator, rather than a FLS director, in hospitals by deleting FC 413.3 and amending FC 413.4 (now renumbered FC 413.3). Additionally, FC 413 is amended by renumbering FC 413.4 and 413.5 as well as to correct a typographical error in FC 413.5.

Section FC 414.1 is amended by eliminating the reference, “accessory thereto,” inadvertently included in the provision, which erroneously indicates that covered malls subject to the section are accessory to other Group M buildings.

Section FC 414.2.1 is amended by requiring a comprehensive fire safety/emergency action (Level 1) plan for a covered mall of more than 300,000 square feet or a building with one or more Group M occupancies with an aggregate area of that size. Furthermore, FC 414.2.1 is amended by eliminating the reference to exclusion of anchor buildings from the calculation of the area of the occupancy, an issue addressed in the newly-added definition of covered mall.

Section FC 414.2.2 is amended by deleting reference to specific FLS staffing and instead authorizes the Fire Department to determine and establish the appropriate staffing for mercantile occupancies through rulemaking.

Section FC 414.3.1 is amended by eliminating reference to exclusion of anchor buildings from the calculation of the area of the occupancy, an issue addressed in the newly-added definition of covered mall.

Section FC 414.4 is added and amended to authorize the Fire Department to establish by rule different emergency plan or staffing requirements for any Group M building or covered mall when warranted by the configuration of the building or mall.

Section FC 501.4.3.1 is amended by retitling the subdivision by adding “public streets” to more accurately reflect the contents of the subdivision.

Section FC 501.1 and FC 501.1.1 was amended to clarify the signage requirements of the section apply to all developments including outdoor shopping malls, office parks and housing complexes and to authorize the Fire Department to require special signage where the individual buildings or tenant spaces do not have separate street addresses, so as to ensure that firefighting and other emergency response personnel can expeditiously locate such buildings or tenant spaces.

Section FC 501.4.2 is amended by specifying the location of the fire emergency marking, previously included in other subdivisions in the section but inadvertently omitted from this subdivision.

Section FC 510.2 is amended by conforming the terminology used in this section to standard Fire Code terminology.

Section FC 803.2.2 is amended to correct a typographical error by deleting a hyphen in the title to now read “Heat release rate”.

Section FC 2209 is amended by making an editorial and grammatical correction by substituting “generating” for “generation.”

Section FC 2906.8.1 is amended by correcting the formatting of the local law by deleting a strikethrough.

Section FC 4006.6 is amended by adding language “public side of the door” for clarifying the location of the signage required by the subdivision.

¹ Administration’s Memorandum In Support to Int. No. 1174, On file with the Committee.

² International Code Council, About ICC. *available at:*
<http://www.iccsafe.org/AboutICC/Pages/default.aspx>

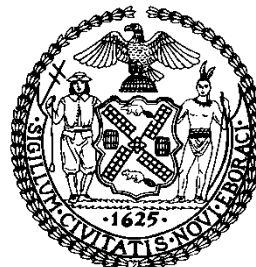
³ NYC Department of Buildings, 2011 Construction Codes Revision Handbook. *available at:*
http://www.nyc.gov/html/dob/downloads/pdf/coderevisions_handbook2011.pdf

⁴ International Code Council, About ICC. *available at:*
<http://www.iccsafe.org/AboutICC/Pages/default.aspx>

⁵ *Id.*

⁶ International Code Council’s website at <http://www.iccsafe.org/news/about/>.

(The following is the text of the Fiscal Impact Statement for Int. No. 1174-A:)



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

PRESTON NIBLACK, DIRECTOR
JEFFREY RODUS, FIRST DEPUTY
DIRECTOR

FISCAL IMPACT STATEMENT

INTRO. NO: 1174-A

COMMITTEE: Fire
and Criminal Justice
Services

TITLE: A Local Law to amend the New York city fire code, in relation to the enhancement of emergency

SPONSOR(S): Council Members Crowley, Koo, Koppell, Vann, Gennaro and Halloran (by request of

preparedness in New York city and the Mayor) the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code, and to amend certain provisions of the New York city charter, the New York city mechanical code and the New York city plumbing code consistent with amendments to the New York city fire code.

SUMMARY OF LEGISLATION: Proposed Intro. No. 1174-A would amend New York City’s fire code based on the 2006 and 2009 editions of the International Fire Code (IFC), the model fire code published by the International Code Council, certain portions of the 2012 IFC, and local characteristics and standards. The current fire code enacted in 2008 requires that the Fire Commissioner, no later than the third year after the effective date of the new Fire Code and every third year thereafter, review the latest edition of the IFC and submit proposed amendments to the City Council. Proposed Intro. No. 1174-A presents the Department’s recommended changes.

The significant changes included in the proposed bill include the following:

- Proposed Intro. 1174-A would comprehensively revise emergency planning and preparedness requirements for all buildings and occupancies so that it is tailored to the size, usage and staffing of each type of building or occupancy. The bill would replace the current, single emergency plan with a requirement for one of three types of plans, which would also require emergency preparedness and planning for non-fire emergencies, including power outages and medical emergencies, currently required only for high-rise office buildings. The office building-type fire safety and evacuation plan currently required for all occupancies would be retained only for the largest occupancies. A simplified fire and emergency preparedness plan would be required for most large occupancies, and a fire and emergency preparedness guide and notices would be required for apartment buildings and dormitories. Emergency preparedness requirements would be eliminated for those occupancies, such as small, street-level storefront businesses that are least equipped to undertake the required planning and staffing and would least benefit from such requirements.
- Proposed Intro. 1174-A would clarify requirements for rooftop access and obstructions to enable the Fire Department to safely conduct firefighting and rescue operations and protect installers, maintenance personnel and other members of the public who have occasion to be present on a roof. The bill also would address rooftop access issues arising from rooftop gardens and photovoltaic solar panel installations in a manner that promotes such rooftop use consistent with the needs of firefighting operations and important public safety purposes served by rooftop access and clear paths.
- Proposed Intro. 1174-A would require a minimum roadway width of 34 feet for fire apparatus access roads, down from 38 feet, to match the standards for newly-constructed public streets, and increase the diameter of dead-end turnarounds from 70 feet to 76 feet, while allowing an alternative turnaround of 90 feet with a 15-foot diameter island.
- To facilitate firefighting and other emergency response operations, the bill would require that entrances to apartment building dwelling units and guest rooms in hotels be identified with a room number. For multi-floor units and unsprinklered building floors that have more than eight units, fire emergency markings that identify the room must be displayed at the bottom of the entrance door jamb.
- Proposed Intro. 1174-A would eliminate the requirement for a permit or certificate of fitness for the storage, handling and use of portable liquid oxygen for medical purposes in residential and residential health care settings. The bill would impose a requirement that the person supplying oxygen to the premises provide fire safety information to the person using the oxygen.
- The bill would clarify the requirements for notification of the Fire Department and the number of fire guards required when fire protection systems are out of service.
- The bill would adopt various measures designed to promote fire safety and fire safety compliance on construction sites, by clarifying fire guard, no smoking and oxygen and acetylene storage requirements, and requiring a separate fire safety manager for a building under construction when the building reaches a height of twenty stories or more than 250 feet, or has a lot coverage of 200,000 square feet or greater.
- Proposed Intro. 1174-A would clarify which individuals are authorized to possess a citywide standard key, which is the key required to be used to operate elevators in the fireman service mode.
- Proposed Intro. 1174-A would prohibit transportation of propane containers in the trunk of a passenger motor vehicle or other area of such vehicle not readily

visible to emergency responders, consistent with requirements in neighboring jurisdictions.

- Proposed Intro. 1174-A would address the design, installation, operation and maintenance of battery systems to address the new technologies used to provide standby power and uninterruptable power supply in buildings.
- Proposed Intro. 1174-A would allow the use of hydrogen fuels in motor vehicles and industrial trucks (hi-lows).
- The bill would adopt National Fire Protection Association standards for the design, installation, operation and maintenance of elevated fixed guideway transit and passenger rail systems; road tunnels, bridges and other limited access highways, and fire protection systems and other fire safety measures at wastewater treatment and collection facilities and electric generating plants.
- The bill would adopt updated editions of sixty National Fire Protection Association (NFPA) Referenced Standards, thereby promoting compliance with the most modern nationally-accepted industry standards.

EFFECTIVE DATE: Ninety days following enactment, except that the fire commissioner may take prior to such date any actions necessary for the timely implementation of this local law, including the promulgation of rules.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: FY 16

FISCAL IMPACT STATEMENT:

	Effective FY14	FY Succeeding Effective FY15	Full Fiscal Impact FY16
Revenues	\$0	\$1.03 million	\$2.06 million
Expenditures	\$100,000	\$850,000	\$850,000
Net	\$0	\$182,000	\$1.21 million

IMPACT ON REVENUES: The newly revised chapter “Emergency Planning and Preparedness” in the proposed revision to the Fire Code would lead to an increase in Fire Department revenue generated from fees for certificates of fitness for fire drill conductor, certificates of fitness for fire and life safety (FLS) directors, and for review of new and updated combined fire safety and evacuation plan and emergency action plans. According to the Fire Department approximately 800 buildings would require certification for three emergency preparedness staff and another 400 buildings would require certification for one fire drill conductor. FDNY charges \$25 for each certificate, and certificates last for 3 years. Over three years certificate fees would total about \$90,000. Certification of approximately 810 new FLS directors in 270 buildings, and about 1,600 upgrades of Fire Safety Director certificates to FLS certificates could generate \$1.6 million every three years. The fee for an upgraded certificate is \$305 and for a new FLS certificate it is \$775. The estimate assumes a 43 percent failure rate. The FLS certificate also lasts for three years.

Review of combined fire safety and evacuation plans and emergency action plans will generate approximately \$453,000 from 720 Level 1 plans and \$147,000 from 700 Level 2 plans. The review fee for a Level 1 plan is \$630 and for a Level 2 plan it is \$210. Additional plan review revenue would be associated only with the initial filing of the newly require Level 1 and Level 2 plans.

The fees generated by Proposed Intro. 1174-A would be paid to the FDNY over the next two or more fiscal years. The Department must establish new rules following passage of Proposed Intro. 1147-A and building owners would have two years following rulemaking to come into compliance. For the purposes of this estimate, one third of the new revenue is shown in Fiscal 2015 and two-thirds is shown in Fiscal 2016.

IMPACT ON EXPENDITURES: The Fire Department is likely to need additional staff to fully implement the provisions of the revised fire code. Additional staffing required might include the following: two uniformed staff for plan review; two staff in the certification unit; two inspectors; one attorney; and one clerical employee. Compensation costs combined would total approximately \$850,000 each year including salary and fringe benefits. The FDNY would also have a one-time cost of \$100,000 to purchase new fire and construction codes for FDNY personnel.

In addition to the impact on the Fire Department, the requirements for emergency planning and preparedness would impose costs on the Department of Education (DOE). The DOE operates schools in 60 high-rise buildings that would require a Level 2 plan. Developing plans for these schools would not require a design professional but might cost approximately \$700 per building according to the Fire Department, for a total cost of \$42,000. DOE would also be required to have at least one staff member certified as Fire Life Safety director who will serve as the fire and emergency preparedness director in each building. DOE could use existing staff to meet the requirements for emergency planning and preparedness. The costs associated with staff certification and developing plans could be met using existing budgetary resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: The Fire Prevention work of the FDNY is a fee based operation, and fees collected for permits, inspections, certificates and other services are expected to cover any additional costs associated with implementing the revised fire code.

SOURCE OF INFORMATION: Fire Department

ESTIMATE PREPARED BY: Regina Poreda Ryan, Deputy Director

LEGISLATIVE HISTORY: Intro. 1174 was introduced by the Council and assigned to the Committee on Fire and Criminal Justice Services. The Committee held a hearing on October 30, 2013 and laid the bill over. The Committee will consider Proposed Intro 1174-A on December 19, 2013. Following a successful vote by the Committee the Council will consider the legislation on December 19, 2013.

DATE PREPARED: December 19, 2013

Accordingly, this Committee recommends its adoption, as amended.

(The following is the edited text of the Mayoral Memorandum in Support for Int No. 1174-A:)

MEMORANDUM IN SUPPORT [EDITED]

TITLE

A local law to amend the New York city fire code, in relation to the enhancement of emergency preparedness in New York city and the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code, and to amend certain provisions of the New York city charter, the New York city mechanical code and the New York city plumbing code consistent with amendments to the New York city fire code.

SUMMARY OF PROVISIONS

This local law proposes to amend the New York City Fire Code. The local law also amends certain provisions of the New York City Charter, the New York City Mechanical Code and the New York City Plumbing Code to conform them to the requirements of the Fire Code.

BACKGROUND

Local Law No. 26 of 2008 enacted a new Fire Code for New York City effective July 1, 2008. The new Fire Code was based on the 2003 edition of the International Fire Code (IFC), the model fire code published by the International Code Council, amended to reflect New York City's unique character and existing fire safety standards and requirements. The new Fire Code was codified as Title 29 of the New York City Administrative Code.

Administrative Code §29-104, enacted as part of Local Law 26 of 2008, requires that no later than the third year after the effective date of the new fire code and every third year thereafter, the Fire Commissioner shall review the latest edition of the International Fire Code and submit to the City Council such proposed amendments as he or she may determine should be made to the fire code based upon such model code.

In accordance with Administrative Code §29-104, the Fire Department undertook a three-year code review process in consultation with representatives of the City Council, New York City Department of Buildings and industry, professional, trade and union organizations. This local law reflects proposed amendments to the Fire Code based on the 2006 and 2009 editions of the International Fire Code, and certain portions of the 2012 International Fire Code, and local initiatives.

REASONS FOR SUPPORT

Enactment of this local law will serve to promote and enhance fire safety in New York City and fulfill the purposes underlying Local Law 26's adoption of a model code. Periodic amendment of the Fire Code to incorporate emerging national fire safety standards and technologies keeps it current and promotes transparency and economic development. It also affords the opportunity to address fire safety issues that have arisen since the adoption of the earlier editions of the model code and the enactment of the New York City Fire Code.

The Fire Code will enhance the safety of the general public, as well as of firefighters and other emergency response personnel. The Fire Code amendments that this local law would enact include the following significant provisions:

1. The local law comprehensively amends the emergency preparedness and planning requirements of the 2008 Fire Code by repealing provisions that required a single type of fire safety plan for all buildings and occupancies, and adding more tailored requirements for fire safety plans based on building type, use, size, complexity, risk vulnerability, presence of building staff and building occupants capable of implementing an emergency preparedness plan and voice communication capability. The local law would also require emergency preparedness and planning for non-fire emergencies, including power outages and medical emergencies, currently required only for high-rise office buildings. The office building-type fire safety and evacuation plan currently required for all occupancies would be retained only for the largest occupancies. A simplified fire and emergency preparedness plan would be required for most large occupancies, and fire and emergency preparedness guide and notices would be required for apartment buildings and dormitories. Emergency preparedness requirements would be eliminated for those occupancies, such as small, street-level storefront businesses, that are least equipped to undertake the required planning and staffing and would least benefit from such requirements.

2. The local law clarifies requirements for rooftop access and obstructions. The requirements will enable the Fire Department to safely conduct firefighting and rescue operations and protect installers, maintenance personnel and other members of the public who have occasion to be present on a roof. The local law also addresses rooftop access issues arising from rooftop gardens and photovoltaic solar panel rooftop installations in a manner that promotes such rooftop use consistent with the needs of firefighting operations and important public safety purposes served by rooftop access and clear paths.

3. The local law clarifies the requirements for fire apparatus access roads in private developments consistent with the interpretations and guidelines the Fire Department has adopted to address issues that have arisen since the enactment of the 2008 Fire Code. These include modifying fire apparatus access requirements for residences set back from the street; clarifying when an alteration to a building on a substandard width public street requires sprinkler protection of the building; and clarifying roadway design and parking requirements.

4. The local law reduces the roadway width of a fire apparatus access road from 38 feet to 34 feet to parallel the roadway standards for newly-constructed public streets, but increases the diameter of dead-end turnarounds from 70 feet to 76 feet, while allowing an alternative turnaround of 90 feet which would allow for a 15-foot diameter island.

5. To facilitate firefighting and other emergency response operations, the local law requires that entrances to apartment building dwelling units and guest rooms in hotels be identified with a room number. For multi-floor units and on unsprinklered building floors that have more than eight units, it requires fire emergency markings that identify the room to be displayed at the bottom of the entrance door jamb.

6. The local law facilitates the use of portable liquid oxygen for medical purposes in residential and residential health care settings by allowing the storage, handling and use of oxygen containers in such occupancies without the need to obtain a permit or a certificate of fitness. The local law imposes a requirement that the person supplying oxygen to the premises provide fire safety information to the person using the oxygen.

7. The local law clarifies the requirements for notification of the Fire Department and the number of fire guards required when fire protection systems are out of service.

8. The local law adopts various measures designed to promote fire safety and fire safety compliance on construction sites, by clarifying fire guard, no smoking and oxygen and acetylene storage requirements, and requiring a separate fire safety manager for a building under construction when the building reaches a height of twenty stories or more than 250 feet, or has a lot coverage of 200,000 square feet or greater.

9. The local law clarifies those persons authorized to possess a citywide standard key, which is the key required to be used to operate elevators in the fireman service mode.

10. Consistent with requirements in neighboring jurisdictions, the local law promotes emergency responder safety by prohibiting the transportation of propane containers in the trunk of a passenger motor vehicle or other area of such vehicle not readily visible to emergency responders.

11. The local law addresses the design, installation, operation and maintenance of battery systems to address the new technologies used to provide standby power and uninterrupted power supply in buildings.

12. The local law promotes the use of clean burning renewable energy by allowing the use of hydrogen fuels in motor vehicles and industrial trucks (hi-lows).

13. The local law adopts National Fire Protection Association standards for the design, installation, operation and maintenance of elevated fixed guideway transit and passenger rail systems; road tunnels, bridges and other limited access highways, and fire protection systems and other fire safety measures at wastewater treatment and collection facilities and electric generating plants.

14. The local law adopts updated editions of sixty National Fire Protection Association (NFPA) Referenced Standards, thereby promoting compliance with the most modern nationally-accepted industry standards.

SUMMARY OF LOCAL LAW:

The local law contains nine sections. Section 1 of the local law sets forth the legislative intent underlying enactment of the law.

Section 2 of the local law amends paragraphs l, m, n and o of subdivision 2 of Charter §1301, which relates to the powers of the Department of Small Business Services (DSBS). In conjunction with Section 3, this provision amends and clarifies the respective roles of the Fire Department and DSBS with respect to the regulation of seaplane bases and helistops.

Section 3 of the local law amends subdivision g of Charter §487, which relates to the powers of the Fire Department. In conjunction with Section 2, this provision amends and clarifies the respective roles of the Fire Department and DSBS with respect to the regulation of seaplane bases and helistops.

Section 4 of the local law amends Chapter 4 of the Plumbing Code to add a new Section 429 that, consistent with amended Fire Code Section FC318.5, requires a rooftop hose connection to ensure that there is a water supply for rooftop gardens or landscaping.

Section 5 of the local law amends Section 507.16 of the Mechanical Code to eliminate the requirement that the performance test of the ventilation system for commercial cooking appliances be witnessed by a Fire Department representative to conform it with the amendment of Fire Code Section FC904.11.4.

Section 6 of the local law sets forth the full text of the Fire Code (as codified in Chapter 2 of Title 29 of the Administrative Code, consisting of Chapters 1 through 45 and Appendices A and B), as amended by this local law. Deletions are shown in [brackets]; new text is underlined. Most of the new text represents existing Fire Code requirements that have been reorganized, relocated and/or renumbered, and editorial corrections, not substantive changes. Renumbered sections and substantive amendments to the Fire Code are summarized in this memorandum of support.

Section 7 of the local law provides that all actions and proceedings, civil or criminal, commenced prior to the effective date of this local law in accordance with any provision repealed or relocated by this local law and pending immediately prior to the taking effect of such repeal or relocation may be prosecuted and defended to final effect in the same manner as they might if those provisions had not been repealed or relocated.

Section 8 of the local law provides that rules promulgated by the Fire Commissioner in accordance with the law in effect prior to the effective date of this local law shall remain in effect for the matters covered to the extent that such rules are not inconsistent with the Fire Code, as amended by this local law, unless and until such rules are amended or repealed by the Fire Commissioner. This section serves to ensure continuity of enforcement of existing rule requirements until such time as new rules or rule amendments are adopted.

Section 9 of the local law provides for the local law to take effect 90 days after enactment, and authorizes the Fire Commissioner to take, prior to such effective date, any actions necessary to the timely implementation of the local law, including the promulgation of rules.

SUMMARY OF FIRE CODE AMENDMENTS:

Editor's Note: For the text of the remainder of this one hundred page Mayoral Memorandum of Support, please see the New York City Council website at <http://council.nyc.gov>)

(The following is the edited text of Int. No. 1174-A:)

Editor's Int No. 1174-A Note: The full text of Int No. 1174-A is 830 pages long. Due to the sheer length of this bill, an edited version is printed below for the purposes of these Minutes. For the full text of this bill, please refer to the New York City Council website at <http://council.nyc.gov>. The edited version below contains the first paragraph of Section 6 and the entire sections 1, 2, 3, 4, 5, 7, 8, and 9 of the bill. Chapters 1 to 45 as well as Appendices A and B presented in the remainder of Section 6 have not been printed in these Minutes— this unprinted material contains enhancements to emergency preparedness in New York city and the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code, as well as amendments to certain provisions of the New York city charter, the New York city mechanical code and the New York city plumbing code consistent with amendments to the New York city fire code (for background, please see Section 1. Legislative Intent in the text of the bill below).

Int. No. 1174-A [edited]

By Council Members Crowley, Koo, Koppell, Vann, Van Bramer, Jackson, Gennaro and Halloran (by request of the Mayor).

A Local Law to amend the New York city fire code, in relation to the enhancement of emergency preparedness in New York city and the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code, and to amend certain provisions of the New York city charter, the New York city mechanical code and the New York city plumbing code consistent with amendments to the New York city fire code.

Be it enacted by the Council as follows:

Section 1. Legislative intent. This local law arises from the mandate of section 29-104 of the administrative code, which requires the fire commissioner to review the latest edition of the international fire code and submit to the city council such proposed amendments to the New York city fire code as the fire commissioner determines should be made. Section 29-104 was enacted by local law 26 of 2008, which adopted a new fire code for New York city based on the international fire code, with amendments to reflect the unique New York City environment. This local law amends the New York city fire code to incorporate new fire safety standards and technologies adopted or reflected in the international fire code since the 2003 edition that was the basis for the 2008 New York city fire code. The fire code amendments enacted by this local law also reflect an evolution in thinking about the implementation of emergency preparedness requirements in a wide range of business, commercial and institutional occupancies. New emergency preparedness requirements address non-fire emergencies and coordinate plan, staffing and voice communication capabilities. These amendments will fulfill the goal of local law 26 of keeping the New York city fire code current and relevant to the fire safety challenges facing New York city.

§2. Paragraphs l, m, n and o of subdivision 2 of section 1301 of the New York city charter, as added by local law number 61 for the year 1991 and amended by local law number 26 for the year 2008, are amended to read as follows:

l. to manage and promote the economic development of all airports, airplane landing sites, seaplane bases, [and] heliports *and helistops* owned by the city, and to lease such property, subject to review and approval pursuant to sections one hundred ninety-seven-c and one hundred ninety-seven-d. No such lease may be authorized by the commissioner until a public hearing has been held with respect thereto after the publication of notice in the City Record at least thirty days in advance of such hearing;

m. except as provided in section 487, to have charge and control of the regulation for the health and safety of the general public of all airports, airplane landing sites, seaplane bases, heliports, *helistops*, marginal streets and parking facilities appurtenant thereto owned by the city;

n. except as provided in section 487, to establish, amend and enforce rules for the proper care and use of all public markets, wharf property, water front property and all airports, airplane landing sites, seaplane bases, [and] heliports *and helistops* owned by the city and placed in his or her charge or over which he or she shall have power of regulation, and to issue such orders as may be necessary for such enforcement. The violation of or the failure to comply with any such order or rule shall be triable in criminal court and punishable, upon conviction, by not more than thirty days imprisonment or by a fine of not less than one hundred dollars nor more than five thousand dollars, or both;

o. except as provided in section 487, to have the exclusive power to regulate all privately owned airports, airplane landing sites, seaplane bases, [and] heliports *and helistops* and the operation out of and into such bases as well as the control of ground effect craft and aircraft operations to or from other sites within the city not so designated as airports, heliports, *helistops*, airplane landing sites or seaplane bases;

§3. Subdivision g of section 487 of the New York city charter, as added by local law number 26 for the year 2008, is amended to read as follows:

g. The department shall have the power and authority to regulate helicopter landings and takeoffs at or from locations other than airports, heliports, *helistops*, *seaplane bases* or other facilities approved by the commissioner of small business services, helicopter external load lift operations, [seaplane landings and takeoffs at or from seaplane bases approved by the commissioner of small business services,] and hot air balloon operations. This subdivision shall not be construed to limit or impair the powers of any other agency established pursuant to this charter, except to the

extent that the aforementioned powers granted to the department were previously exercised by the commissioner of small business services.

§4. Chapter 4 of the New York city plumbing code of chapter 6 of title 28 of the administrative code of the city of New York, as added by local law number 99 for the year 2005, amended by local law numbers 54 and 55 for the year 2010, and amended by local law number 41 for the year of 2012, is amended by adding a new section 429 to read as follows:

SECTION PC 429

ROOFTOP GARDENS AND LANDSCAPING

429.1 Water supply. *Where a connection to an approved water supply is required by Section 318.5 of the New York City Fire Code for rooftop gardens or landscaping exceeding 250 square feet (23 m²), an approved fixture shall be provided for connection to such water supply in accordance with this code.*

§5. Section 507.16 of the New York city mechanical code of chapter 8 of title 28 of the administrative code of the city of New York, as added by local law number 33 for the year 2007, is amended to read as follows:

507.16 Performance test. A performance test shall be conducted upon completion of and [witnessed by a representative of the Fire Department] before final approval of the installation of a ventilation system serving commercial cooking appliances. The test shall verify the rate of exhaust airflow required by Section 507.13, makeup airflow required by Section 508, and proper operation as specified in this chapter. The permit holder shall furnish the necessary test equipment and devices required to perform the tests. *The performance test shall be witnessed by a special inspector.*

§6. The New York city fire code, chapter 2 of title 29 of the administrative code of the city of New York, as added by local law number 26 for the year 2008, amended by local law numbers 37, 39, 41 and 64 for the year 2009, and amended by local law 2 for the year 2013, is amended to read as follows:

[Editor's Note: Chapters 1 to 45 as well as Appendices A and B presented in Section 6 of this bill are not printed in these Minutes; please see Editor's Int No. 1174-A Note printed immediately above the text of this bill for further explanation]

§7. All actions and proceedings, civil or criminal, commenced prior to the effective date of this local law in accordance with any provision repealed by this local law and pending immediately prior to the taking effect of such repeal may be prosecuted and defended to final effect in the same manner as they might if those provisions had not been repealed.

§8. Rules promulgated by the fire commissioner in accordance with the law in effect prior to the effective date of this local law shall remain in effect for the matters covered to the extent that such rules are not inconsistent with the New York city fire code, as added by this local law, unless and until such rules are amended or repealed by the fire commissioner.

§9. This local law shall take effect 90 days after the date of enactment, except that the fire commissioner may take prior to such date any administrative actions necessary for the timely implementation of this local law, including but not limited to the promulgation of rules.

ELIZABETH S. CROWLEY, Chairperson; PETER F. VALLONE, Jr., ROSIE MENDEZ, MATHIEU EUGENE, YDANIS A. RODRIGUEZ; Committee on Fire and Criminal Justice Services, December 19, 2013.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1174-A:)

**THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the New York city fire code, in relation to the enhancement of emergency preparedness in New York city and the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code, and to amend certain provisions of the New York city charter, the New York city mechanical code and the New York city plumbing code consistent with amendments to the New York city fire code.

Given under my hand and seal this 19th day of
December, 2013 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

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 Fire and Criminal Justice Services and had been favorably reported for adoption.

Report for Res. No. 2081

Report of the Committee on Fire and Criminal Justice Services in favor of approving a Resolution finding that the enactment of Proposed Int. No. 1174-A does not have a significant adverse impact on the environment and is consistent with the state environmental quality review act.

The Committee on Fire and Criminal Justice Services, to which the annexed resolution was referred on December 19, 2013, respectfully

REPORTS:

BACKGROUND AND INTENT:

The Committee on Fire and Criminal Justice Services, chaired by Council Member Elizabeth S. Crowley, has been convened to consider this Preconsidered Resolution. The Committee is expected to vote on Proposed Int. No. 1174-A, which would create a local law to amend the New York city fire code, in relation to the enhancement of emergency preparedness in New York city and the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code, and to amend certain provisions of the New York city charter, the New York city mechanical code and the New York city plumbing code consistent with amendments to the New York city fire code. The enactment of local legislation is considered to be an "action" subject to the New York State Environmental Quality Review Act (Environmental Conservation Law, Article 8) and the City Environmental Quality Review Procedure (CEQR), which require an analysis of the environmental impacts of taking that action. One possible outcome of the environmental analysis is a determination that the proposed action will not have a "significant adverse environmental impact," warranting the issuance of a Negative Declaration. Such an environmental analysis was performed regarding the enactment of Proposed Int. No. 1174-A and it was determined that the issuance of a Negative Declaration was, in fact, the appropriate outcome. This Preconsidered Resolution is the mechanism by which the Council adopts that Negative Declaration.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 2081:)

Res. No. 2081

Resolution finding that the enactment of Proposed Int. No. 1174-A does not have a significant adverse impact on the environment and is consistent with the state environmental quality review act.

By Council Members Crowley and James.

Whereas, The enactment of Proposed Int. No. 1174-A is an "action" as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

Whereas, In accordance with section 5-03(d) of the City Environmental Quality Review ("CEQR") Rules of Procedure, the City Council and the Office of the Mayor are designated as co-lead agencies for local laws; and

Whereas, In accordance with section 5-03(d) of the CEQR Rules of Procedure, the City Council delegated its lead agency status to the Office of the Mayor, which in accordance with CEQR Rules of Procedure section 5-03(i), transferred its lead agency status to the New York City Fire Department, which considered the relevant environmental issues attendant to the enactment of Proposed Int. No. 1174-A; and

Whereas, After such consideration and examination of an Environmental Assessment Statement, the New York City Fire Department determined that a Negative Declaration should be issued; and

Whereas, The Council examined and considered the Negative Declaration that was prepared; now, therefore, be it

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

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

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

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

ELIZABETH S. CROWLEY, Chairperson; PETER F. VALLONE, Jr., ROSIE MENDEZ, MATHIEU EUGENE, YDANIS A. RODRIGUEZ; Committee on Fire and Criminal Justice Services, December 19, 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 Governmental Operations

Override Report for Int. No. 951-A

Report of the Committee on Governmental Operations in favor of approving and adopting, as amended, notwithstanding the objection of the Mayor, a Local Law to amend the New York city charter, in relation to public notice of final rules.

The Committee on Governmental Operations, to which the annexed amended proposed local law was referred on October 11, 2012 (Minutes, page 4027), before being adopted by the Council on October 30, 2013, (Minutes, page 4225) but vetoed by the Mayor on November 27, 2013 and referred back to the Committee on Governmental Operations on December 10, 2013 (please see M-1338, Minutes, p. 4936), respectfully

REPORTS:

INTRODUCTION

Today, the Committee on Governmental Operations, chaired by Council Member Gale Brewer, will vote on a bill and a resolution. The bill, Int. 951-A, was approved by this Committee on October 29, 2013 and approved by the full Council the following day. It was vetoed by the Mayor, notice of which was received by the Council at the Stated Meeting of December 10, 2013. The question before the Committee with respect to Int. 951-A is whether to accept and file the Mayor's veto message, M1338, and whether the bill should be re-passed notwithstanding the objections of the Mayor.

The Committee will also vote today on Proposed Res. No. 1988-A. This resolution was heard by this Committee on November 9, 2013.

BACKGROUND FOR INT. 951-A

Under the City Administrative Procedure Act (CAPA), certain notice requirements exist prior to a public hearing on a proposed rule.¹ In contrast, adoption of a final rule does not require that notice be given, though notice must be given prior to a rule going into effect² CAPA does not require that commissioners or board members, for those agencies that have them, be given a copy of a final rule prior to voting on it. In other words, the commissioners of the Taxi and Limousine Commission, for example, could be unaware of the content of a complex final rule which was the subject of intense negotiation until moments before they are required to cast a vote supporting or opposing the rule.

The intent of Int. No. 951-A is to ensure that commissioners and board members have sufficient time to review the contents of a rule prior to voting on it.

ANALYSIS OF INT. NO. 951-A

Section 1

Section 1 of the bill requires that all final rules initiated by agencies that are boards or commissions, and which go through the CAPA process, be posted on the agency's website and e-mailed to all members of such board or commission at least three days, not counting Sundays, before such rule is voted on. An exception exists in

the bill for changes made to a rule within the window after such notice has been properly given but before a final vote on the rule, if such change or changes are approved by all the members of the applicable board or commission by unanimous consent. The requirements of this section will not create a private right of action to enforce its provisions, and the inadvertent failure of an agency to comply with its provisions will not be grounds for invalidating any rule.

Among the agencies anticipated to be covered by this law are, at a minimum, the Board of Standards and Appeals, the Procurement Policy Board, the Environmental Control Board, the Loft Board, the Rent Guidelines Board, the Civilian Complaint Review Board, the Board of Correction, the Campaign Finance Board, the Conflicts of Interest Board, the Business Integrity Commission, the Tax Commission, the Taxi and Limousine Commission, the Commission on Human Rights, the Design Commission, the City Planning Commission, and Landmarks Preservation Commission.

Section 2

Section 2 of the bill requires pilot programs that are approved by the Taxi and Limousine Commission to be posted on the agency's website and e-mailed to all members of the commission at least three days, not counting Sundays, before such pilot program is voted on. Pilot programs by the Taxi and Limousine Commission are required by rule to be voted on by a resolution of approval, and these notice requirements would tie into that process.

Section 3

This law goes into effect thirty days after its enactment.

BACKGROUND FOR PROPOSED RES. NO. 1988-A

The New York City Lobbying Commission (the Commission) was appointed by Speaker Quinn and Mayor Bloomberg in February of 2011.³ The Commission spent two years reviewing the City's lobbying laws and their implementation by the City Clerk. This review included seven public meetings or hearings from March through September of 2011. The Commission's Final Report was released on March 13, 2013.

The Commission was created pursuant to the Council and Mayor's 2006 revisions to the City's lobbying laws.⁴ These reforms were "designed to strengthen the integrity, transparency and accessibility of City government and to reassure New Yorkers that their elected representatives were acting in the City's interests and not on behalf of special interests."⁵ To accomplish these objectives, the 2006 legislation "strengthen[ed] enforcement and penalties," "create[d] a mandatory electronic filing system for lobbyists," "prevent[ed] lobbyists' campaign contributions from being matched with public funds" and "ban[ned] all gifts from lobbyists to public officials."⁶ It also called for the formation of a joint mayoral-council commission to recommend improvements to the laws, evaluate whether the dollar thresholds triggering registration should be increased, and review the performance of the Clerk, which led to the creation of the Commission in 2011.

Since the 2006 amendments to the lobbying laws, the number of registered lobbyists has increased by approximately 50%; the Clerk has, for the first time, levied penalties and fines against lobbyists who do not comply with the lobbying laws; the Clerk has audited over 100 lobbyists; and the e-Lobbyist electronic filing system has been established.⁷

Many of the Commission's recommendations were passed legislatively by the Council on December 10 of this year, as Int. 1722-A. One of the recommendations of the Commission's Final Report that was not included in that legislation, however, was its recommendation "calling on the State to accept the City filings for lobbyists who register under the State Lobbying Act solely by virtue of their lobbying activity in New York City."⁸ This is the purpose of Proposed Res. No.1988-A.

ANALYSIS OF PROPOSED RES. NO. 1988-A

Proposed Res. No. 1988-A calls on the New York State Assembly and Senate to pass, and the Governor to sign, legislation requiring the Joint Committee on Public Ethics, the state body charged with enforcing the state's lobbying laws, to accept and post online filings submitted to the City Clerk by lobbyists who are required to file with the state solely due to their lobbying of New York City officials. The state has similar, though in certain ways less stringent, filing requirements to the City, but does not accept lobbyist filings with the City for its own filings. The only change since Proposed Res. No. 1988-A was heard previously in this Committee was the addition of language asking that the filings that the State receives to be posted online.

¹ See §1043(b) of the New York City Charter. These requirements include publication in the City Record and posting online.

² §1043(f) of the New York City Charter.

³ The members of the Commission were Herbert E. Berman, the chair of the Commission, and Jamila Ponton Bragg, Lesley C. Horton, Margaret Seay Morton, and Elisa Velasquez.

⁴ Local Laws 15, 16, and 17 of 2006.

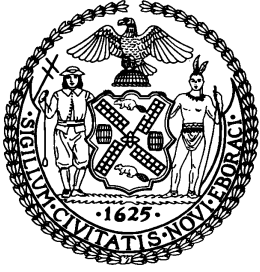
⁵ NYC Lobbying Commission Final Report, March 13, 2013, page 6-7.

⁶ NYC Lobbying Commission Final Report, March 13, 2013, page 15.

⁷ NYC Lobbying Commission Final Report, March 3, 2013, page 2.

⁸ NYC Lobbying Commission Final Report, March 3, 2013, page 69.

(The following is the text of the Fiscal Impact Statement for Int. No. 951-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: 951-A
COMMITTEE:
Governmental Operations

TITLE: Local Law to amend the New York city charter, in relation to public notice of final rules. **SPONSORS:** By Council Members Vacca, James, Koo, Koslowitz, Palma, Rose, Chin, Gennaro and Halloran

SUMMARY OF LEGISLATION: The bill requires that all final rules requiring a public vote initiated by agencies that are boards or commissions must be posted on the agency’s website and e-mailed to the members of the board or commission at least three days before the vote. The bill also requires that the Taxi and Limousine Commission follow similar notice procedures when approving pilot programs.

EFFECTIVE DATE: This law would go into effect thirty days following its enactment.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: N/A

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 impact on City revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: 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: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: John Russell, Principal Legislative Financial Analyst

ESTIMATE REVIEWED BY: Latonia Mckinney, Deputy Director, and Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on October 11, 2012 as Int. 951 and referred to the Committee on Governmental Operations. On April 3, 2013, the Committee held a hearing regarding this legislation, an amendment was proposed and the bill was laid over. The Committee on Governmental Operations passed the amended bill, Proposed Int. 951-A, on October 29, 2013, and the Full Council passed this amended version on October 30, 2013. On November 27, 2013, the Mayor issued a message of disapproval, vetoing the legislation. That veto message was formally accepted by the Council at its Stated meeting held on December 10, 2013. The Committee will re-pass the legislation notwithstanding the objections of the Mayor as Int. 951-A on December 18, 2013 and will file the veto message of Mayor Michael Bloomberg, M 1338. The Full council will vote to re-pass the bill on December 19, 2013 and will file the veto message of Mayor Michael Bloomberg, M 1338.

Notwithstanding the objection of the Mayor, this Committee recommends the re-adoption of Int No. 951-A.

(The following is the text of Int. No. 951-A:)

Int. No. 951-A

By Council Member Vacca, James, Koo, Koslowitz, Palma, Rose, Chin, Gennaro, Brewer, Van Bramer, Rodriguez, Barron, Gentile, Jackson, Halloran and Greenfield.

A Local Law to amend the New York city charter, in relation to public notice of final rules.

Be it enacted by the Council as follows:

Section 1. Subdivision e of section 1043 of chapter 45 of the New York city charter is amended to read as follows:

e. Opportunity for and consideration of agency and public comment. The agency shall provide the public an opportunity to comment on the proposed rule (i) through outreach to the discrete regulated community or communities, if one exists, provided that this clause shall not be construed to create a private right of action to enforce this requirement; (ii) through submission of written data, views, or arguments, and (iii) at a public hearing unless it is determined by the agency in writing, which shall be published in the notice of proposed rulemaking in the City Record, that such a public hearing on a proposed rule would serve no public purpose. All written comments and a summary of oral comments concerning a proposed rule received from the public or any agency shall be placed in a public record and be made readily available to the public as soon as practicable and in any event within a reasonable time, not to be delayed because of the continued pendency of consideration of the proposed rule. After consideration of the relevant comments presented, the agency may adopt a final rule pursuant to subdivision f of this section; *except that, other than a rule adopted pursuant to subdivision i of this section, no final rule shall be adopted by such board or commission unless its final language is posted in a prominent location on such agency’s website and electronically transmitted to each member of such board or commission at least three calendar days, exclusive of Sundays, prior to such rule’s adoption; provided, however, that revisions may be made to a final rule posted online and sent electronically in conformity with this subdivision at any time prior to the vote on such rule if such revisions are approved by all members of such board or commission by unanimous consent.* Such final rule may include revisions of the proposed rule, and such adoption of revisions based on the consideration of relevant agency or public comments shall not require further notice and comment pursuant to this section. *This paragraph shall not be construed to create a private right of action to enforce its provisions. Inadvertent failure to comply with this paragraph shall not result in the invalidation of any rule.*

§ 2. Section 2303 of the New York city charter is amended by adding a new subdivision d to read as follows:

d. *No resolution of approval of a pilot program shall be approved by the commission unless such resolution is posted in a prominent location on the commission’s website and electronically transmitted to each member of the commission at least three calendar days, exclusive of Sundays, prior to the commission’s vote to approve or reject such resolution of approval; provided, however, that revisions may be made to a resolution of approval for a pilot program posted online and sent electronically in conformity with this subdivision at any time prior to a vote on such resolution if such revisions are approved by all members of the commission by unanimous consent.*

§ 3. This local law shall take effect thirty days after enactment.

GALE A. BREWER, Chairperson; ERIK MARTIN DILAN, PETER F. VALLONE, Jr., INEZ E. DICKENS; Committee on Governmental Operations, December 18, 2013.

Coupled to be Overridden.

Report for M-1338

Report of the Committee on Governmental Operations in favor of filing the Mayor’s veto and disapproval message of Introductory Number 951-A - in relation to public notice of final rules.

The Committee on Governmental Operations, to which the annexed communication was referred on December 10, 2013 (Minutes, page 4936), respectfully

REPORTS:

Since the veto for Int No. 951-A is to be overridden by the Council, this Committee recommends the filing of M-1338 (Veto and Disapproval Message for Int No. 951-A).

(For text of related report, please see the Override Report of the Committee on Governmental Operations for Int No. 951-A printed in these Minutes)

Accordingly, this Committee recommends filing and removal from the Council's legislative calendar of M-1338.

GALE A. BREWER, Chairperson; ERIK MARTIN DILAN, PETER F. VALLONE, Jr., INEZ E. DICKENS; Committee on Governmental Operations, December 18, 2013.

Coupled to be Filed.

Reports of the Committee on Health

Report for Int. No. 933-A

Report of the Committee on Health 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 an animal abuse registry.

The Committee on Health, to which the annexed amended proposed local law was referred on September 12, 2012 (Minutes, page 3496), respectfully

REPORTS:

1. INTRODUCTION

On December 18th, the Committee on Health, chaired by Council Member Maria del Carmen Arroyo, will hold a hearing on Proposed Int. No. 933-A, a local law to amend the administrative code of the city of New York, in relation to creating an animal abuse registry to ensure that persons convicted of animal abuse crimes are not able to acquire animals. On June 7th, 2013, the Committee held its first hearing on Proposed Int. No. 933-A. The Committee heard and received testimony from the Department of Health and Mental Hygiene, Animal Care & Control, representatives of the Brooklyn District Attorney, as well as advocates and other stakeholders. Following that hearing, the bill was amended.

2. ANALYSIS OF LEGISLATION

PROPOSED INT. NO. 933-A

Bill section 1 would contain legislative findings that animal cruelty is a serious problem in New York City.

Bill section 2 would amend Title 17 of the Administrative Code by adding a new Chapter 16 entitled "Animal Abuse Registration Act" that would contain the sections described herein.

New section 17-1601 would provide definitions for use in the chapter.

Section 17-1602 would provide for the creation of an animal abuse registry. Subdivision a of such section would require the mayor or his designee to designate an agency to implement the provisions of the chapter and to report to the speaker of the council the designated agency. Subdivision b of such section would require such agency to create, manage, and maintain an electronic registry containing the names and addresses of individuals living in the city of New York who have been convicted of an animal abuse crime who have registered with the agency pursuant to this chapter. Subdivision c of section 17-1602 would require the agency designated to maintain the registry to keep confidential the information maintained in it, except to provide authorized entities, including law enforcement and entities that sell and adopt out pets, with the password protected ability to electronically query the registry to find out if a specific person is on it.

Section 17-1603 would provide for animal abuse registration requirements.

Subdivision a of section 17-1603 would require any person 18 years of age or older who resides in the city of New York and is convicted of an animal abuse crime on or after the effective date of the local law to appear in person to register, provided however, no person shall be required to register pending the resolution of an appeal of such conviction. Paragraph 1 of such subdivision a further provides that a person required to so register shall do so within five days following such person's release from incarceration, or if such person was not incarcerated, within five days from the date of such person's sentencing. Paragraph 2 of such subdivision a provides that a person convicted of an animal abuse crime who establishes residency in New York City following such person's release from incarceration, or if not incarcerated, following such person's sentencing, must register within five days of establishing such residency.

Subdivision b of section 17-603 would require the agency maintaining the registry to photograph the registrant at the time of registration.

Subdivision c of section 17-1603 would require the registrant to provide such agency with specific identification information and any other information deemed pertinent by the department.

Subdivision d of section 17-1603 would require each registrant to personally appear within twenty days of each one year anniversary of the registrant's initial registration for the purpose of verifying information required under subdivision c of such section of the Code. Subdivision d would also require the agency maintaining the registry to photograph the registrant at such time.

Subdivision e of section 17-1603 of the Code would require each registrant to personally appear before the department to update the department within five days of a change in any of the information required pursuant to subdivision c of such section of the Code.

Subdivision f of section 17-1603 would require each registrant to remain on the animal abuse registry for five years following his or her release from incarceration or the date judgment was rendered, whichever is later. Registrants convicted of subsequent animal abuse crimes would be required to remain on the animal abuse registry for ten years following the date of the last conviction.

Section 17-1604 would prohibit a person registered or required to be registered with the animal abuse registry from owning, possessing, residing with, having custody of, or intentionally engaging in any physical contact with any animal.

Section 17-1605 would prohibit any animal shelter, pet shop, veterinarian, animal rescue, humane society, animal control officer, or society for the prevention of cruelty to animals located in New York City from exchanging or transferring ownership of a companion animal to any person listed on the animal abuse registry.

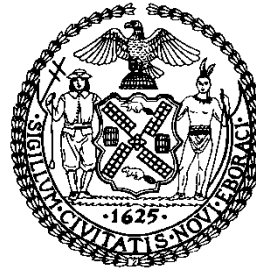
Section 17-1606 would authorize the commissioner of the agency designated to implement the provisions such chapter to promulgate the rules necessary for the implementation of the law.

Section 17-1607 of the Code would provide that a violation of section 17-1603 or 17-1604 of the Code or any rules promulgated thereunder shall be a misdemeanor punishable by up to one year imprisonment, a fine of up to one thousand dollars, or both.

Section 17-1608 would provide that the law shall apply to persons convicted of an animal abuse crime on or after the effective date of the law.

Bill section 3 would provide that the local law take effect 240 days after enactment provided, however, that the mayor or his designee shall designate an agency to implement its provisions within 90 days of its enactment and the commissioner of such agency shall take all necessary actions, including promulgation of rules, prior to the effective date.

(The following is the text of the Fiscal Impact Statement for Int. No. 933-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: 933-A
COMMITTEE:
Health

TITLE: To amend the administrative code of the city of New York, in relation to creating an animal abuse registry.

SPONSOR(S): Vallone, Gentile, Crowley, Arroyo, Brewer, Fidler, James, Koo, Mark-Viverito, Nelson, Rose, Vacca, Williams, Rodriguez, Gonzalez, Koppell, Mendez, Lander, Gennaro, Halloran and Ulrich

SUMMARY OF LEGISLATION:

Proposed Int. No. 933-A would require the mayor to designate an agency to establish a registry of New York City residents who are convicted of animal abuse crimes under New York State law or the laws of another state after the effective date of the law. Entities that sell or adopt out pets, such as animal shelters, pet shops, veterinarians, and duly incorporated animal rescues would be required to consult the registry before transferring ownership of any animal in its care and would be prohibited from transferring ownership to anyone listed on the registry.

Residents convicted of animal abuse crimes would be required to register upon release from incarceration, or if not incarcerated, within five days of sentencing. Non-residents who establish residency following incarceration or sentencing would be required to register within five days of establishing residency. A person required to register who fails to register would be guilty of a misdemeanor punishable by up to a year of imprisonment, a fine of up to one thousand dollars, or both. A person registered or required to register would be prohibited from owning, possessing, residing with, having custody of, or intentionally engaging in any physical contact with any animal. A person required to comply with these prohibitions concerning

contact with an animal would be guilty of a misdemeanor punishable by up to a year of imprisonment, a fine of up to one thousand dollars, or both.

EFFECTIVE DATE: This legislation would take effect 240 days after its enactment provided, however, that the mayor or his designee shall designate an agency to implement its provisions within 90 days of its enactment and the commissioner of such agency shall take all necessary actions, including promulgation of rules, prior to the effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2016

FISCAL IMPACT STATEMENT:

	Effective FY15	FY Succeeding Effective FY 16	Full Fiscal Impact FY16
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: There would be no impact on revenues resulting from this legislation. Any fine revenues resulting from this legislation would be *de minimis*, as the rationale for the inclusion of potential fines is to foster compliance with the law.

IMPACT ON EXPENDITURES: There would be no impact on expenditures resulting from this legislation as its enforcement can be accomplished using existing resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council
Finance Division

ESTIMATE PREPARED BY: Crilhien R. Francisco, Legislative
Financial Analyst

ESTIMATED REVIEWED BY: Latonia McKinney, Deputy
Director

Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 12, 2012 as Int.933 and referred to the Committee on Health. On June 7, 2013, the Committee on Health held a hearing on this legislation and the bill was laid over. An amended version of the legislation, Intro 933-A, will be considered by the Committee on Health on December 18, 2013 and upon successful vote, the bill will be submitted to the full Council for a vote at the Stated meeting held on December 19, 2013.

DATE SUBMITTED TO COUNCIL: September 12, 2012

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 933-A:)

Int. No. 933-A

By Council Members Vallone, Jr., Gentile, Crowley, Arroyo, Brewer, Fidler, James, Koo, Mark-Viverito, Nelson, Rose, Vacca, Williams, Rodriguez, Gonzalez, Koppell, Mendez, Lander, Gennaro, Halloran, Ulrich and Lappin.

A Local Law to amend the administrative code of the city of New York, in relation to creating an animal abuse registry.

Be it enacted by the Council as follows:

Section 1. Legislative Findings. The Council finds that animal cruelty is a serious problem in New York City. Although New York State criminalizes cruelty to animals, animals in New York City continue to be subject to abusive behavior. In recent years, several states and municipalities have considered creating animal abuse registries to track people convicted of animal cruelty. As of 2013, four New York State counties had created animal abuse registries. The Council finds that creating a registry of those convicted of animal cruelty will aide those involved in the sale or adoption of animals to ensure that an animal will not be placed with a person with a record of animal abuse.

§ 2. Title 17 of the administrative code of the city of New York is amended by adding a new chapter 16 to read as follows:

Chapter 16
Animal Abuse Registration Act

§17-1601 Definitions.

§17-1602 Creation of an animal abuse registry.

§17-1603 Animal abuse registration requirements.

§17-1604 Prohibition on ownership of animals.

§17-1605 Requirements of animal shelters.

§17-1606 Rules and Regulations.

§17-1607 Penalties.

§17-1608 Applicability.

§17-1601 Definitions. For the purposes of this chapter, the following terms shall have the following meanings:

a. "Animal abuse crime" shall mean any of the following:

1. animal fighting, as defined in section three hundred fifty-one of the agriculture and markets law;

2. overdriving, torturing or injuring animals; failure to provide proper sustenance, as defined in section three hundred fifty-three of the agriculture and markets law;

3. aggravated cruelty to animals, as defined in section three hundred fifty-three-a of the agriculture and markets law;

4. electrocution of fur-bearing animals, as defined in section three hundred fifty-three-c of the agriculture and markets law;

5. abandonment of animals, as defined in section three hundred fifty-five of the agriculture and markets law;

6. failure to provide proper food and drink to an impounded animal, as defined in section three hundred fifty-six of the agriculture and markets law;

7. poisoning or attempting to poison animals, as defined in section three hundred sixty of the agriculture and markets law;

8. interference with or injury to certain domestic animals, as defined in section three hundred sixty-one of the agriculture and markets law;

9. harming a service animal in the first degree, as defined in section 242.15 of the penal code; or

10. an offense in any other jurisdiction which includes all of the essential elements of any such crime provided for in paragraph one, two, three, four, five, six, seven, eight, or nine of this subdivision.

b. "Animal shelter" shall mean any full service shelter, as defined in subdivision d of section 17-802 of this code, or other facility that makes dogs and cats available for adoption whether or not a fee for such adoption is charged.

c. "Animal rescue" shall mean a not-for-profit organization duly incorporated in the state of New York that accepts unwanted dogs or cats from an animal shelter or other place and attempts to find homes for, and promote adoption of, such animals by the general public.

d. "Authorized entity" shall mean any of the following: a humane society duly incorporated in the state of New York, a society for the prevention of cruelty to animals duly incorporated in the state of New York, a dog or cat protective associations duly incorporated in the state of New York, an animal control officer, a pet shop, a veterinarian, an animal rescue, or an animal shelter operating in the city of New York.

e. "Commissioner" shall mean the commissioner of the agency designated to implement the provisions of this chapter pursuant to subdivision a of section 17-1602 of this chapter.

f. "Convicted of" shall mean an adjudication of guilt by any court of competent jurisdiction, whether upon a verdict or plea of guilty or nolo contendere.

g. "Department" shall mean the agency designated to implement the provisions of this chapter pursuant to subdivision a of section 17-1602 of this chapter, notwithstanding any inconsistent provisions of this title.

h. "Registrant" shall mean a person required to register with the department pursuant to this chapter.

i. "Pet shop" shall mean a facility required to have a permit issued pursuant to subdivision (a) of section 161.09 of the New York city health code, where dogs and/or cats are sold, exchanged, bartered, or offered for sale as pet animals to the general public at retail for profit.

§17-1602 Creation of animal abuse registry. a. The mayor or his designee shall designate an agency to implement the provisions of this chapter and shall report such designation to the speaker of the council.

b. The department shall create, manage and maintain an electronic registry of individuals living in the city of New York who have been convicted of an animal abuse crime and who have registered with the department pursuant to this chapter.

c. The information maintained in the registry created pursuant to this section shall only be made available to law enforcement agencies, district attorneys or when otherwise required by law, and shall otherwise be kept confidential, provided, however, that the department shall grant authorized entities the password-protected ability to electronically query the registry using a person's name, driver's license or non-driver photo ID card number, or other identifying information determined by the commissioner, and to receive in response to such query electronic notice of whether such person is prohibited from owning an animal under section 17-1604 of this chapter.

§17-1603 Animal abuse registration requirements. a. Any person eighteen

years of age or older who resides in the city of New York and has been convicted of an animal abuse crime on or after the effective date of the local law that added this chapter shall personally appear before the department at a location determined by the commissioner to register, provided, however, no person shall be required to appear before the department to register pending resolution of an appeal of such conviction.

1. Such person shall appear and register within five days following such person's release from incarceration or if such person was not incarcerated within five days from the date of such person's sentencing.

2. Notwithstanding the foregoing, a person convicted of an animal abuse crime on or after the effective date of the local law that added this chapter who establishes residency in the city of New York following such person's release from incarceration or if such person was not incarcerated following such person's sentencing, must, within five days of establishing such residency, personally appear before the department at a location determined by the commissioner to register.

b. The department shall photograph the registrant at the time of registration.

c. Any person required to register pursuant to this chapter shall submit to the department the following:

1. The registrant's name, all aliases used, date of birth, sex, complexion, race or ethnicity, height, weight, eye color, number of any driver's license or non-driver photo ID card, home address and/or expected place of residence.

2. A description of the offense for which the registrant was convicted, the date of conviction and the sentence imposed.

3. Any other documentation as the commissioner deems acceptable to verify the information provided by the registrant.

d. Within twenty days of each one year anniversary of the registrant's initial registration date for so long as such registrant remains on the animal abuse registry pursuant to subdivision f of this section, such registrant shall personally appear at a location designated by the commissioner. At such appearance the department shall photograph the registrant and verify the continuing accuracy of the information provided by the registrant pursuant to subdivision c of this section.

e. Within five days of any change in any of the information provided by a registrant pursuant to subdivision c of this section, such registrant shall personally appear before the department to submit updated information for the registry.

f. Each registrant shall remain on the animal abuse registry for five years following his or her release from incarceration or the date sentencing was rendered, whichever is later, provided, however, that registrants who are convicted of any subsequent animal abuse crime shall remain on the animal abuse registry for ten years following the date of their most recent conviction.

§17-1604 Prohibition on contact with animals. a. A person who is registered or required to register pursuant to section 17-1603 shall not own, possess, reside with, have custody of, or intentionally engage in any physical contact with any animal.

§17-1605 Prohibition of transfers of animals to animal abusers. a. Prior to the exchange or transfer of ownership of any animal in the care of an authorized entity operating in the city of New York, an employee or volunteer of such entity shall consult the animal abuse registry to determine whether the person seeking ownership of such animal is listed on the animal abuse registry.

b. No entity required to consult the animal abuse registry shall exchange or transfer the ownership of any animal to any person listed on the animal abuse registry.

§17-1606 Rules. The commissioner may promulgate rules necessary for the implementation of this chapter.

§17-1607 Penalties. a. Any person found in violation of section 17-1603 or 17-1604 or any rules promulgated thereunder shall be guilty of a misdemeanor punishable by incarceration for not more than one year or a fine of up to one thousand dollars, or both.

§17-1608 Applicability. This law shall apply to all persons convicted of an animal abuse crime on or after the effective date of this law.

§3. This local law shall take effect 240 days after enactment provided, however, that the mayor or his designee shall designate an agency to implement its provisions within 90 days of its enactment and the commissioner of such agency shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

MARIA del CARMEN ARROYO, Chairperson; JOEL RIVERA, PETER F. VALLONE, Jr., ALBERT VANN, INEZ E. DICKENS, ROSIE MENDEZ, MATTHIEU EUGENE, DEBORAH L. ROSE, JAMES G. VAN BRAMER; Committee on Health, December 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 Int. No. 1210-A

Report of the Committee on Health 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 the regulation of electronic cigarettes.

The Committee on Health, to which the annexed amended proposed local law was referred on December 10, 2013 (Minutes, page 5226), respectfully

REPORTS:

I. INTRODUCTION

On December 18, 2013, the New York City Council Committee on Health, chaired by Council Member Maria del Carmen Arroyo, considered Proposed Int. No. 1210-A, a Local Law to amend the administrative code of the city of New York, in relation to the regulation of electronic cigarettes. The first hearing on this legislation was held on December 4, 2013. Those who testified at the first hearing included New York City Health Commissioner Thomas Farley, public health advocates, representatives of electronic cigarette manufacturers and retail stores, representatives of small businesses and the hospitality industry, and members of the public. Technical amendments were made to the bill following the first hearing. At the second hearing, the bill passed by a vote of 9-0.

II. BACKGROUND

Electronic cigarettes are electronic devices that deliver nicotine, flavor, and other chemicals through vaporization or aerosolization.¹ Electronic cigarettes were developed near the turn of this century and were first patented in the European Union before being introduced to the United States (U.S.) in 2006.² The use of electronic cigarettes in the U.S., commonly referred to as "vaping," has grown at a rapid pace, with sales for 2013 projected to be \$1.7 billion.³ Manufacturers and proponents of electronic cigarettes claim the devices offer users a safer alternative to smoking cigarettes, as electronic cigarettes can deliver nicotine without combusting tobacco and producing smoke.⁴ However, some public health advocates argue that electronic cigarettes may serve as a gateway to smoking and that by offering flavored versions of the product, electronic cigarettes may hold a particular appeal to youth.⁵ Other proponents of regulation cite the lack of rigorous, peer-reviewed studies that affirm the safety of these products or which analyze the chemical contents of electronic cigarettes, both those inhaled by users and emitted as a byproduct of use.⁶ The U.S. Food and Drug Administration (FDA) and the U.S. Centers for Disease Control and Prevention (CDC) both have also expressed serious concern about electronic cigarettes,⁷ as have 40 State attorneys general.⁸ Recently, citing concern that youth use of electronic cigarettes could lead to a lifetime of addiction to nicotine, the New York City Council passed and Mayor Michael Bloomberg signed into law Local Law 94 of 2013, which raised the minimum sales age for electronic cigarettes and tobacco products from 18 to 21.⁹

Regulation of Electronic Cigarettes in New York and at the Federal Level

The novel nature of electronic cigarettes has led many governments to wrestle with regulation of these products and whether to restrict their use. The federal government regulates and monitors tobacco products through the FDA,¹⁰ while allowing state and local governments to enact measures regarding tobacco products that are more stringent than federal requirements.¹¹

In 2008, the FDA moved to assert control over electronic cigarettes by detaining two shipments of the devices, preventing them from entering the U.S. on the grounds that they were not approved for sale by the agency.¹² The manufacturers challenged the FDA's seizure, while the FDA claimed it could regulate electronic cigarettes as drug delivery devices under the Food, Drug, and Cosmetic Act.¹³ The FDA was blocked from seizing the shipment by a federal district court, which ruled the agency could not regulate electronic cigarettes under the Food, Drug, and Cosmetic Act, but stated that the FDA could exercise regulatory power over the products pursuant to the 2009 Family Smoking Prevention and Tobacco Control Act ("Tobacco Act").¹⁴ The United States Court of Appeals for the District of Columbia Circuit affirmed the ruling, holding that the Tobacco Act allows the FDA to regulate electronic cigarettes as "tobacco products."¹⁵ Recently, the FDA announced that it would issue a proposed rule that would expand the definition of tobacco products, possibly resulting in new federal oversight authority of electronic cigarettes; as of December 18, 2013, a draft of the proposed rule has not been made public.¹⁶

Beyond the federal level, New York State and City have enacted laws in relation to the sale of electronic cigarettes, but not their use. New York State Public Health Law regulates smoking in public places, but defines "smoking" in a manner that does not include the use of electronic cigarettes in the law.¹⁷ In 2012, the New York State Legislature set the minimum legal sales age for electronic cigarettes at 18,¹⁸ however, as noted above, in November 2013, Mayor Bloomberg signed a law establishing a minimum sales age of 21 for electronic cigarettes sold in New York City.¹⁹

Scientific Studies of Electronic Cigarettes

Much of the debate surrounding electronic cigarettes concerns the products' safety and effectiveness as a potential harm-reducing alternative to smoking. As the products have enjoyed mainstream success for a relatively short period of time, less than a decade, it is not clear that definitive scientific conclusions regarding electronic cigarettes have been reached.

In 2009, the FDA's Division of Pharmaceutical Analysis analyzed the ingredients in a sample of electronic cigarettes from two major brands.²⁰ The FDA's analysis found tobacco-specific impurities suspected of being harmful to humans in a majority of the samples; detectable levels of known human carcinogens in half of samples tested; and diethylene glycol, a toxic chemical used in antifreeze, in one cartridge.²¹ The FDA cautioned that the results "should not be used to draw conclusions about what substances are or are not present in particular electronic cigarettes or brands of electronic cigarettes."²² While some have argued that it is too early to declare that electronic cigarettes are unsafe, others urge precautionary regulation until more is known about the product.²³

Following the FDA's initial testing of a sample of electronic cigarettes, the agency has continued to express concern about their safety, contending that due to the lack of a comprehensive study of electronic cigarettes, there is no way to know whether the products are safe, what potential harmful chemicals are inhaled during their use, what nicotine levels are present in the product, and if there are any health benefits associated with their use.²⁴ The agency also noted that flavored electronic cigarettes may appeal to young people, and could eventually lead them to try smoking.²⁵

Proponents of electronic cigarettes point to studies focusing upon the potential for electronic cigarettes to serve as a harm-reduction tool, often noting that rather than being a pathway to nicotine addiction or tobacco use, electronic cigarette use substitutes the use of cigarettes with a less harmful alternative.²⁶ Tobacco harm reduction tends to refer to strategies that lower the risks associated with tobacco without abstaining completely from tobacco or nicotine intake.²⁷ One recent study published by a British medical journal found that use of electronic cigarettes helped a small sample of smokers achieve levels of abstinence similar to those resulting from use of nicotine patches.²⁸ Additionally, a 2011 study found that a large percentage of a sample of smokers who purchased electronic cigarettes reduced their cigarette smoking.²⁹

Normalization and Impact on Youth

Studies indicate that youth are more susceptible to the addictive properties of nicotine.³⁰ Evidence suggests that youth manifest symptoms of nicotine addiction following even minimal amounts of exposure, far less than is generally required for addiction symptoms to appear in adults.³¹ Additionally, while it is not yet evident whether exposure to electronic cigarettes in public places will necessarily result in an increase in the likelihood of youth smoking or electronic cigarette use, a 2012 U.S. Surgeon General report stated that the proliferation of smoke-free air laws "may create perceptions of social disapproval among both adults and youth, and structuring the physical environment to make it inconvenient for youth to smoke may influence them to not take up tobacco use."³² This finding suggests that if the City's Smoke-Free Air Act is not amended to include the use of electronic cigarettes, the Act may be less effective in discouraging the behavior of smoking because – as discussed below – many electronic cigarettes closely resemble cigarettes and their pervasive use could re-normalize the act of smoking.

Though a link between social or media exposure to electronic cigarettes and use is not established, it does appear that electronic cigarette use among youth is emerging as a public health concern. According to data recently released by the CDC, between 2011 and 2012, the percentage of middle and high school students in the U.S. who have used electronic cigarettes more than doubled.³³ The percentage of high school students using electronic cigarettes rose from 4.7 percent to ten percent, with total usage among middle and high school students reaching 1.78 million.³⁴ The CDC's Director expressed concern with the increase in electronic cigarette use among youth, stating that use of such products may lead teens to struggle with nicotine addiction or to more use of cigarettes.³⁵

Regulation of the Use of Electronic Cigarettes in Smoke-Free Air Laws in Other Jurisdictions

As electronic cigarettes have grown in popularity, a number of jurisdictions have moved to restrict the use of such products in public places. In 2009, New Jersey passed legislation including electronic cigarettes in the State's Smoke Free Air Act, which encompasses all enclosed indoor places of public access and workplaces, by amending the definition of "smoking" to include the use of electronic cigarettes.³⁶ The State Legislature cited as reasons for amending the Act the lack of federal regulation of electronic cigarettes and potential health risks that could result from exposure to electronic cigarette vapor.³⁷ In 2012, Utah amended its Indoor Clean Air Act to prohibit the use of both electronic cigarettes and hookahs in all enclosed indoor places of public access and in publicly owned buildings and offices.³⁸ The same year, North Dakota's Smoke-Free Air Act was updated to bar the use of electronic cigarettes in restaurants, bars, workplaces, hotels and motels, retail tobacco stores, gambling facilities, child and adult day cares, and within 20 feet of entrances to areas where smoking is prohibited.³⁹

A number of local governments have also moved to restrict the use of electronic cigarettes. In 2009, Suffolk County became one of the first local governments in the U.S. to bar the use of electronic cigarettes in certain public places.⁴⁰ The law was challenged by the owner of an electronic cigarette store, but was upheld by a New York Supreme Court that found the legislature had acted properly in its attempt to address a public health concern.⁴¹ Cattaraugus County in New York also prohibited the use of electronic cigarettes in public places and workplaces in 2012.⁴² Other local governments that have restricted the use of electronic cigarettes include Concord City and Petaluma in California;⁴³ Chatham County in Georgia;⁴⁴ Bardstown, Madison County, and Bullitt County in Kentucky;⁴⁵

Great Barrington, Lee, Lenox, Stockbridge, North Attleborough, Somerset, and South Hadley in Massachusetts;⁴⁶ Duluth in Minnesota;⁴⁷ and King and Tacoma-Pierce Counties in Washington.⁴⁸

Enforcement Concerns

There is no standard design for electronic cigarettes, which are available in a variety of models, ranging from small cylinders to those that resemble large pens or rectangular boxes.⁴⁸ However, some electronic cigarettes are designed to mimic the look and feel of cigarettes, featuring similar sizes, shapes, and even LED-lighted tips.⁴⁹ These products, sometimes referred to as "cigalikes,"⁵⁰ have the potential to create confusion among those responsible for enforcing New York City's Smoke-Free Air Act due to their similar appearance to cigarettes.⁵¹ In enacting its restrictions on the use of electronic cigarettes in 2009, Suffolk County pointed to FDA reports concerning the presence of carcinogens in electronic cigarettes and the lack of research providing a conclusion on the safety of such products, as well as concerns that the use of electronic cigarettes "seriously compromise the County's current public health laws governing indoor smoking bans and create an enforcement nightmare for the Department of Health Services' Tobacco Enforcement Unit."⁵² As the popularity of electronic cigarettes grow, so does the likelihood that their prevalence in areas where smoking is prohibited will increase. Suffolk County's issues with enforcement suggest that the City, business owners, and employers could face similar problems, but on a far larger scale.

III. ANALYSIS

Section one of Int. No. 1210-A contains the findings of the proposed legislation, explaining that electronic cigarettes are unregulated electronic devices, often containing nicotine, a highly addictive substance. The bill's findings note that the United States Food and Drug Administration (FDA) has found toxins and carcinogens in some electronic cigarettes and has expressed concern about their safety. Section one states that allowing the use of electronic cigarettes indoors creates difficulties in enforcing the Smoke-Free Air Act and may make it more difficult for smokers to quit. The bill's intent is to prohibit use of electronic cigarettes in public places and places of employment in order to facilitate the enforcement of the City's Smoke-Free Air Act and to protect youth from observing behaviors that could encourage smoking.

Section two of Int. No. 1210-A would amend section 17-502 of the Code to add definitions for "electronic cigarette" and "retail electronic cigarette store." "Electronic cigarette" would be defined as an electronic device that delivers vapor for inhalation, including any refills, cartridges, or any other component of an electronic cigarette. The definition of electronic cigarettes would not include products approved by the FDA for sale as a drug or medical device. "Retail electronic cigarette store" would be defined as a retail store devoted primarily to selling electronic cigarettes, where the sale of other products is merely incidental, which means such sales generate less than fifty percent of the store's total annual gross sales.

Section three would amend section 17-503 of the Code by prohibiting the use of electronic cigarettes in enclosed areas within public places, as enumerated in subdivision a of section 17-503. Subdivision a would also be amended to permit the use of electronic cigarettes as part of a theatrical production. Subdivision b would be amended to prohibit the use of electronic cigarettes in service lines and waiting areas, whether located indoors or outdoors, where the public is permitted or invited, unless the use of electronic cigarettes is not regulated in these locations pursuant to section 17-505 of this bill. Subdivision c would be amended to prohibit the use of electronic cigarettes in outdoor areas of public places, as enumerated in the subdivision.

Section four would amend section 17-504 of the Code to prohibit the use of electronic cigarettes in indoor areas of places of employment, provided however, that the use of electronic cigarettes would not be prohibited in any area where the use of electronic cigarettes is not regulated pursuant to section 17-505. Subdivision c would be amended to prohibit the use of electronic cigarettes in company vehicles occupied by more than one person and in all vehicles owned by the City. Subdivision e would be amended to require every employer subject to the provisions of chapter five of title 17 to adopt a written electronic cigarette use policy. Subdivision f would be amended to require employers to prominently post their use of electronic cigarette policy in the workplace and to disseminate it within three weeks to its employees; subdivision g would be amended to require employers to supply written copies of such policy to employees and prospective employees upon request; and subdivision h would be amended to require employers to provide their use policy to the Department of Health and Mental Hygiene (DOHMH), the Department of Buildings, the Department of Consumer Affairs, the Department of Environmental Protection, the Fire Department, and the Department of Sanitation, upon request. Subdivision i would be amended to make clear that section 17-504 should not be construed to permit the use of electronic cigarettes in any areas where the use of such products is prohibited or restricted under section 17-503 and to make clear that use of electronic cigarettes is prohibited in places of employment that are also public places regulated under section 17-503 but which are not exempt under section 17-505.

Section five would amend section 17-505 of the Code to allow the use of electronic cigarettes in certain areas enumerated in such section, including private residences, except those in which a day care center or health care facility operates; hotel and motel rooms; private automobiles; retail tobacco stores; and enclosed rooms at approved functions held for the purpose of promoting and sampling electronic cigarettes. Section five would add a new subdivision i to add retail electronic cigarette stores to the list of locations not regulated by chapter five of title

17, provided however, that only the use of electronic cigarettes would be permitted in such stores.

Section six would amend section 17-506 of the Code to require signage regarding the use of electronic cigarettes. Subdivision a would be amended to require “electronic cigarette use permitted” or “electronic cigarette use prohibited” signs to be prominently and conspicuously displayed when required to comply with chapter five of title 17. Subdivision b would be amended to require movie theaters to show on their screens information for at least five seconds indicating that use of electronic cigarettes is prohibited. Subdivision c would be amended to require hotels and motels that choose to develop and implement an electronic cigarette use policy for rooms to post notice regarding the availability of electronic cigarette-free rooms.

Section seven would amend section 17-507 of the Code in regard to enforcement of the Smoke-Free Air Act. Subdivision c of section 17-507 would be amended to require that operators of public places and employers inform individuals using electronic cigarettes in restricted areas that they are in violation of the law, with the same exceptions as currently set forth in the subdivision. Subdivision d would be amended to require owners or building managers of public places where the use of electronic cigarettes is prohibited, who do not operate such places, to designate an agent to inform individuals using electronic cigarettes in restricted common areas that they are in violation of the law. Subdivision e would be amended to require owners or managers of places of employment that are required to prohibit the use of electronic cigarettes, who do not operate such places, to designate an agent to inform individuals using electronic cigarettes in restricted common areas that they are in violation of the law.

Section eight would amend section 17-508 of the Code in regard to violations of the Smoke-Free Air Act and penalties. Subdivision a would be amended to prohibit those controlling the use of a premises where use of electronic cigarettes is prohibited from providing a room for use of such products, failing to post signs or remove ashtrays, or failure to make a good faith effort to comply with subdivisions c, d, and e of section 17-507. Subdivision a also describes affirmative defenses in actions brought for violations of subdivision a. Subdivision b would be amended to make it unlawful for an employer subject to the requirements of section 17-504 to fail to comply with the provisions of such section, including but not limited to the adoption of a written policy on the use of electronic cigarettes, and to create an affirmative defense for such violations. Subdivision d would be amended to make it unlawful for any person to use an electronic cigarette in any area where the use of such products is prohibited under sections 17-503 and 17-504. Subdivision e would be amended to provide that every person who violates subdivision d by using an electronic cigarette in a pedestrian plaza or park would be liable for a civil penalty of \$50. Subdivision f would be amended to provide that proceedings to recover civil penalties owed for using electronic cigarettes in pedestrian plazas or parks would be commenced by service of a notice of violation returnable to the Environmental Control Board.

Section nine would amend section 17-510 of the Code to require DOHMH to provide assistance to those who want to stop using electronic cigarettes.

Section ten would amend section 17-512 of the Code in regard to general provisions of the Smoke-Free Air Act. Subdivision a would be amended to provide that nothing in the Act should be construed to permit the use of electronic cigarettes where it is otherwise prohibited. Subdivision b would be amended to make clear that nothing in the Act should be construed to prohibit business owners or employers from adopting an electronic cigarette-free policy that completely prohibits the use of such products. Subdivision d would be amended to provide that nothing in the Act should be construed to prohibit business owners or employers from prohibiting the use of electronic cigarettes to a greater extent than provided for in the Act.

Section eleven would amend section 17-513.2 of the Code to specify that nothing in the Smoke-Free Air Act should be interpreted to permit the use of electronic cigarettes where it is prohibited or restricted by any other law, rule, or regulation.

Section twelve would amend chapter five of title 17 of the Code by adding a new section 17-513.3. New section 17-513.3 would prohibit retail tobacco stores and retail electronic cigarette stores from operating without having registered with DOHMH, in accordance with the rules of DOHMH.

Section thirteen would amend chapter five of title 17 of the Code by adding a new section 17-513.4. New section 17-513.4 would require DOHMH to promulgate rules that would provide a system for review and verification of the total annual gross sales of retail tobacco stores and retail electronic cigarette stores.

Section fourteen would require that employers make necessary changes to their written smoking policies to bring such policies into compliance with the requirements of the Smoke-Free Air Act, as amended by this proposed bill, no later than 90 days following its enactment.

Section fifteen provides that Int. No. 1210-A would take effect 120 days after its enactment, provided that the Commissioner of DOHMH takes all necessary actions for its implementation, including the promulgation of rules, prior to such effective date. The provisions related to required signage and movie theater screen messages regarding use of electronic cigarettes pursuant to subdivisions a and b of section 17-506 would not take effect until 180 days after the proposed local law’s enactment.

¹U.S. Food and Drug Administration, Public Health Focus > Electronic Cigarettes (e-Cigarettes), <http://www.fda.gov/newsevents/publichealthfocus/ucm172906.htm> (last accessed Nov. 30, 2013).

²Jordan Paradise, *No Sisyphean Task: How the Fda Can Regulate Electronic Cigarettes*, 13 Yale J. Health Pol’y, L. & Ethics 326, 352-53 (2013); Joan Lowy, *Ban Proposed on Electronic Cigarettes on Planes*, MSNBC (Sept. 14, 2011), <http://www.msnbc.msn.com/id/44518729/ns/travel-news/t/ban-proposed-electronic-cigarettes-planes>.

³Matt Richtel, *The E-Cigarette Industry, Waiting to Exhale*, N.Y. TIMES, Oct. 26, 2013, available at <http://www.nytimes.com/2013/10/27/business/the-e-cigarette-industry-waiting-to-exhale.html?pagewanted=all>.

⁴*Id.*

⁵John Keilman and Mitch Smith, *Regulation push catching up with e-cigarettes*, CHICAGO TRIBUNE, Nov. 15, 2013, available at http://articles.chicagotribune.com/2013-11-15/news/ct-met-electronic-cigarettes-20131115_1_e-cigarettes-flavors-erika-sward.

⁶*Id.*

⁷Keilman and Smith, *supra* note **Error! Bookmark not defined.**

⁸*Regulate E-Cigarettes Like Tobacco Products, 40 Attorneys General Urge FDA*, CBS NEWS, Sept. 24, 2013, available at <http://www.cbsnews.com/news/regulate-e-cigarettes-like-tobacco-products-40-attorneys-general-urge-fda>.

⁹N.Y.C. Ad. Code § 17-706, L.L. 2013/094.

¹⁰21 U.S.C.A. § 387f.

¹¹*Id.* at § 387p.

¹²*Smoking Everywhere, Inc. v. U.S. Food & Drug Admin.*, 680 F. Supp. 2d 62, 64 (D.D.C. 2010).

¹³*Id.*

¹⁴*Id.* at 78.

¹⁵*Sottera, Inc. v. U.S. Food & Drug Admin.*, 627 F.3d 891 (D.C. Cir. 2010) (citing Pub. L. No. 111-31, 123 Stat. 1776).

¹⁶U.S. Food and Drug Administration, *supra* note 1.

¹⁷N.Y. Pub. Health Law §§ 1399-n(8), 1399-O, and 1399-O-1.

¹⁸*Id.* at § 1399-cc.

¹⁹N.Y.C. Ad. Code § 17-706, L.L. 2013/094.

²⁰U.S. Food and Drug Administration, Public Health Focus > Summary of Results: Laboratory Analysis of Electronic Cigarettes Conducted by FDA, <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm173146.htm> (last accessed Dec. 1, 2013).

²¹*Id.*

²²*Id.*

²³See e.g., Keilman and Smith, *supra* note **Error! Bookmark not defined.**; Anemona Hartocollis, *Council Bill Aims to Limit Use of E-Cigarettes as Their Popularity Grows*, N.Y. TIMES, Nov. 27, 2013 available at <http://www.nytimes.com/2013/11/28/nyregion/bill-would-restrict-electronic-cigarettes-in-new-york.html>.

²⁴U.S. Food and Drug Administration, Consumer Updates > FDA Warns of Health Risks Posed by E-Cigarettes, <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm173401.htm> (last accessed Dec. 1, 2013); see also U.S. Food and Drug Administration, *supra* note 1.

²⁵*Id.*

²⁶See Keilman and Smith, *supra* note **Error! Bookmark not defined.**; Clay Neely, *The Emergence Of ‘Vaping’ And Harm Reduction*, TIMES HERALD, Dec. 1, 2013 (available at <http://www.times-herald.com/business/20131124-Vape-Stores-In-Coweta>).

²⁷*Id.*

²⁸Christopher Bullen, et. al., *Electronic cigarettes for smoking cessation: a randomised controlled trial*, *The Lancet*, Volume 382, Issue 9905, at 1629 - 1637, Nov. 16, 2013, available at <http://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2813%2961842-5/abstract>.

²⁹Michael Siegel, et. al., *Electronic cigarettes as a smoking-cessation: tool results from an online survey*, *American Journal of Preventive Medicine* (2011), available at <http://www.ncbi.nlm.nih.gov/pubmed/21406283>.

³⁰Nicholas Bakalar, *Nicotine Addiction Is Quick in Youths, Research Finds*, N.Y. TIMES, July 31, 2007, available at <http://www.nytimes.com/2007/07/31/health/31iht-snnic.6916088.html>.

³¹U.S. Department of Health and Human Services, *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General* (2012), at 24, available at <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf>.

³²*Id.* at 437.

³³U.S. Centers for Disease Control and Prevention, Press Release, *E-cigarette use more than doubles among U.S. middle and high school students from 2011-2012*, Sept. 5, 2013, available at <http://www.cdc.gov/media/releases/2013/p0905-ecigarette-use.html>.

³⁴*Id.*

³⁵*Id.*

³⁶New Jersey Statutes Annotated § 26:3D-57.

³⁷2009 New Jersey Sess. Law Serv. Ch. 182 (WEST).

³⁸Utah Code § 26-38; Utah Rules § R392-510.

³⁹North Dakota Century Code, Chapter 23-12.

⁴⁰Patrick Kelton, *Suffolk Passes E-cigarette Ban*, LONG ISLAND PRESS, Aug. 18, 2009, available at <http://archive.longislandpress.com/2009/08/18/suffolk-passes-e-cigarette-ban/>; Suffolk County Code, Chapter 754.

⁴¹*Matter of Kuhn v County of Suffolk*, 2010 N.Y. Misc. LEXIS 5224, 2-3 (N.Y. Sup. Ct. Oct. 15, 2010). The court found that the law had a rational basis and was supported by facts, holding that “[w]hile it is undisputed that e-cigarettes are less harmful than conventional cigarettes, the Legislature relied upon the existing data and literature, including the preliminary testing conducted by the FDA, which found public health concerns.” In noting the lack of research establishing electronic cigarettes as dangerous, the court wrote “it is entirely proper for a Legislature to anticipate a danger and to provide against it before it materializes.”

⁴²County of Cattaraugus, L.L. No. 16-2011, Act No. 530-2011.

⁴³Concord Code, Ch. 38, Art. II; City of Petaluma Code, Ch. 8.20.

⁴⁴Chatham County Code §§ 21-901 to 21-919.

⁴⁵Bardstown Code §§ 123.01 to 123.99; Bullitt County Board of Health, Regulation 10-01; and Madison County Board of Health Regulation 700 (2007).

⁴⁶Great Barrington Board of Health Regulation (Nov. 8, 2012); Tri-Town Health Department, Environmental Tobacco Smoke Tobacco Regulations (July 1, 2012); Town of North Attleborough Board of Health, Nicotine Delivery Product and E-Cigarette Regulation (July 13, 2010); Somerset Board of Health, Sale and Use of Non-Tobacco Nicotine Delivery Products Regulation (Sept. 1, 2010); Town of South Hadley Board of Health, Sale and Use of Non-Tobacco Nicotine Delivery Products Regulation (Oct. 29, 2009).

⁴⁷Duluth Code of Ordinances §§ 28-62 to 28-72.

⁴⁸King County Board of Health Code §§ 19.09.010 to 19.03.080; Tacoma-Pierce Environmental Health Code, Ch. 9.

⁴⁹Consumer Advocates for Smoke-free Alternatives Association, Electronic Cigarettes FAQs, http://casaa.org/FAQS_ecig.html (last accessed Dec. 1, 2013).

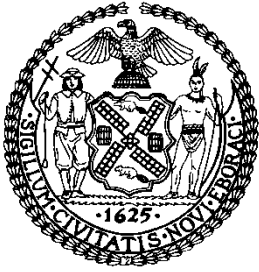
⁵⁰Richtel, *supra* note 3.

⁵¹Melissa Vonder Haar, *Views From the Electronic Frontline*, CSPNET.COM, Nov.27, 2013, available at <http://www.cspnet.com/category-management-news-data/tobacco-news-data/articles/views-electronic-frontline>.

⁵²Steven Kurutz, *Confounding a Smoking Ban, and Bouncers*, N.Y. TIMES, Aug. 7, 2013, available at <http://www.nytimes.com/2013/08/08/fashion/smoking-is-back-without-the-stigma.html>.

⁵³*Id.* at 4-5.

(The following is the text of the Fiscal Impact Statement for Int. No. 1210-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: 1210-A
COMMITTEE:
Health

TITLE: To amend the administrative code of the city of New York, in relation to the regulation of electronic cigarettes.

SPONSOR(S): Gennaro, The Speaker (Council Member Quinn), Arroyo, Greenfield, Vacca, Koo, Koppell and Richards.

SUMMARY OF LEGISLATION:

Proposed Intro. 1210-A would prohibit the use of electronic cigarette devices in public places and places of employment in order to facilitate enforcement of the Smoke-Free Air Act, and protect youth from observing behaviors that could encourage them to smoke. The bill would amend the Smoke-Free Air Act to prohibit the use of electronic cigarettes in all areas where smoking is prohibited, including public places, such as restaurants and bars; libraries and museums; parks and beaches; and places of employment. The use of electronic cigarettes would be permitted in all areas where smoking is not regulated, including private residences, hotel and motel rooms, private automobiles, City streets and sidewalks, and in retail electronic cigarette stores.

The exception for retail electronic cigarette stores would mirror an exception for retail tobacco stores, which allows smoking in stores where sales of tobacco constitute at least 50% of annual gross sales. Both retail electronic cigarette and tobacco retail stores would have to register with DOHMH in order to verify that they fit into smoking and electronic cigarette use exceptions for generating sales mostly from electronic cigarettes or tobacco products, respectively. The enforcement and penalties provisions related to the use of electronic cigarettes are identical to those related to smoking.

EFFECTIVE DATE: This legislation would take effect 120 days after its enactment, with signage requirements taking effect in 180 days.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2015

FISCAL IMPACT STATEMENT:

	Effective FY15	FY Succeeding Effective FY 16	Full Fiscal Impact FY15
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: There would be no impact on revenues resulting from this legislation. Any fine revenues resulting from this legislation would be *de minimis*, as the rationale for the inclusion of potential fines is to foster compliance with the law.

IMPACT ON EXPENDITURES: There would be no impact on expenditures resulting from this legislation as its enforcement can be accomplished using existing resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: Department of Health and Mental Hygiene

ESTIMATE PREPARED BY: Crilhien R. Francisco, Legislative Financial Analyst

ESTIMATED REVIEWED BY: Latonia McKinney, Deputy Director
Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on December 10, 2013 as Int.1210 and referred to the Committee on Health. On December 4, 2013, the Committee on Health held a hearing on this legislation and

the bill was laid over. An amended version of the legislation, Intro 1210-A, will be considered by the Committee on Health on December 18, 2013 and upon successful vote, the bill will be submitted to the full Council for a vote at the Stated meeting held on December 19, 2013.

DATE SUBMITTED TO COUNCIL: December 10, 2013

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1210-A:)

Int. No. 1210-A

By Council Members Gennaro, The Speaker (Council Member Quinn), Arroyo, Greenfield, Vacca, Koo, Koppell, Richards and Dromm.

A Local Law to amend the administrative code of the city of New York, in relation to the regulation of electronic cigarettes.

Be it enacted by the Council as follows:

Section 1. Legislative findings. Electronic cigarette devices have not been approved by the Food and Drug Administration (FDA) for smoking cessation and are currently unregulated by the FDA. Most devices contain nicotine, a highly addictive substance. Although the long-term effects of electronic cigarette devices require further study, the FDA has found that some devices contain toxins and carcinogens and has expressed concerns about their safety. Use of electronic cigarette devices, particularly in places where smoking is prohibited, may interfere with smokers' attempts to quit by making it easier for them to maintain their nicotine addiction. Children and youth who experiment with electronic cigarettes may become addicted to nicotine and ultimately switch to smoking cigarettes.

The use of electronic cigarette devices may be visually similar to the smoking of cigarettes, and has already been observed in locations where smoking is prohibited, creating concern and confusion that threatens to interfere with enforcement of the Smoke-Free Air Act. The use of electronic cigarette devices in places where smoking is prohibited may increase the social acceptability and appeal of smoking, particularly for youth, potentially undermining the enormous progress that has been made over the years in discouraging smoking.

The Council therefore finds that prohibiting the use of electronic cigarette devices in public places and places of employment will protect the health of the citizens of New York City, facilitate enforcement of the Smoke-Free Air Act, and protect youth from observing behaviors that could encourage them to smoke.

§ 2. Section 17-502 of the administrative code of the city of New York is amended by adding new subdivisions qq and rr to read as follows:

qq. "Electronic cigarette" means an electronic device that delivers vapor for inhalation. Electronic cigarette shall include any refill, cartridge, and any other component of an electronic cigarette. Electronic cigarette shall not include any product approved by the food and drug administration for sale as a drug or medical device.

rr. "Retail electronic cigarette store" means a retail store devoted primarily to the sale of electronic cigarettes, and in which the sale of other products is merely incidental. The sale of such other products shall be considered incidental if such sales generate less than fifty percent of the total annual gross sales.

§ 3. Section 17-503 of the administrative code of the city of New York, as amended by local law number 5 for the year 1995, the heading of section 17-503 as amended by local law number 47 for the year 2002, the opening paragraph of subdivision a and paragraphs 1, 4, 5, 6, 8, 10, 11, 14 and 15 of subdivision a as amended by local law number 47 for the year 2002, paragraphs 12, 16 and 17 of subdivision a as added by local law number 5 for the year 1995, paragraphs 19, 20, 21 and 22 of subdivision a as added by local law number 47 for the year 2002, subdivision c as added by local law number 5 for the year 1995, the opening paragraph of subdivision c and paragraph 1 of subdivision c as amended by local law number 47 for the year 2002, paragraph 6 of subdivision c as added by local law number 50 for the year 2009, paragraph 7 of subdivision c as added by local law number 11 for the year 2011, subdivision d as added by local law number 5 for the year 1995, and paragraph 3 of subdivision d as added by local law number 11 for the year 2011, is amended to read as follows:

§ 17-503 Prohibition of smoking and use of electronic cigarettes.

a. Smoking [is], and using electronic cigarettes, are prohibited in all enclosed areas within public places except as otherwise restricted in accordance with the provisions below. Such public places include, but are not limited to, the following:

1. Public transportation facilities, including, but not limited to, ticketing, boarding and waiting areas of public transit depots.
2. Public means of mass transportation, including, but not limited to, subway cars and all underground areas of a subway station, buses, vans, taxicabs and all for-hire vehicles, including but not limited to limousines, required to be licensed or franchised by the city of New York.
3. Public restrooms.
4. Retail stores (other than retail tobacco stores).
5. Restaurants.
6. Business establishments (other than retail tobacco stores) including, but not limited to, banks and other financial institutions, catering halls, offices where trade or

vocational activity occurs or professional or consumer services are rendered and non-profit entities, including religious institutions; provided however, that this paragraph shall not apply to membership associations.

7. Libraries, museums and galleries.

8. Motion picture theaters, concert halls, buildings or areas or rooms in buildings primarily used for or designed for the primary purpose of exhibiting movies or presenting performances, including, but not limited to, stage, musical recital, dance, lecture or other similar performances, except that smoking, *and using electronic cigarettes*, may be part of a theatrical production.

9. Auditoriums.

10. Convention halls.

11. Sports arenas and recreational areas.

12. Gymnasiums, health clubs and enclosed areas containing a swimming pool.

13. Places of meeting or public assembly during such time as a meeting open to the public is being conducted for educational, religious, recreational, or political purposes, but not including meetings conducted in private residences, unless such meetings are conducted in an area in a private residence where a child day care center or health care facility is operated during the times of operation or in an area which constitutes a common area of a multiple dwelling containing ten or more dwelling units.

14. Health care facilities including, but not limited to, hospitals, clinics, psychiatric facilities, residential health care facilities, physical therapy facilities, convalescent homes, and homes for the aged; provided however, that this paragraph shall not prohibit smoking, *or the use of electronic cigarettes*, by patients in separate enclosed rooms of residential health care facilities or facilities where day treatment programs are provided, which are designated as smoking rooms for patients of such facilities or programs, provided, however, that prior written approval is received from the fire commissioner pursuant to section [27-4276] 310.2 of the fire code.

15. All schools other than public and private pre-primary, primary, and secondary schools providing instruction for students at or below the twelfth-grade level, including, but not limited to, community colleges, technical training establishments, specialty schools, colleges and universities.

16. Children's institutions.

17. Zoos.

18. Elevators.

19. Public areas where bingo is played.

20. Bars; provided however, that smoking shall be permitted in[:

(a) tobacco bars[; (b) owner operated bars; and],

21. Tobacco businesses, except that smoking shall be permitted in areas within a tobacco business designated by such business for the purpose of testing or development of tobacco or tobacco products; provided, however, that such areas must all be located on no more than two floors of the building where such business is located.

22. Membership associations; provided however, that smoking shall only be allowed in membership associations in which all of the duties with respect to the operation of such association, including, but not limited to, the preparation of food and beverages, the service of food and beverages, reception and secretarial work, and the security services of the membership association are performed by members of such membership association who do not receive compensation of any kind from the membership association or any other entity for the performance of such duties.

b. Smoking [is], *and using electronic cigarettes*, are prohibited on any service line, waiting area, or portion thereof, whether located indoor or outdoor during the times in which the public is invited or permitted, notwithstanding the fact that the service line, waiting area, or portion thereof, is in an area otherwise designated for smoking, *or using electronic cigarettes*, pursuant to subdivision a of this section; provided, however, that this subdivision shall not be construed to prohibit smoking, *or using electronic cigarettes*, in any area where smoking, *or using electronic cigarettes*, is permitted pursuant to section 17-505.

c. Smoking [is], *and using electronic cigarettes*, are prohibited in the following outdoor areas of public places, except as otherwise restricted in accordance with the provisions below:

1. Outdoor dining areas of restaurants with no roof or other ceiling enclosure; provided, however, that smoking, *or using electronic cigarettes*, may be permitted in a contiguous outdoor area designated for smoking, *or using electronic cigarettes*, so long as such area: (i) constitutes no more than twenty-five percent of the outdoor seating capacity of such restaurant; (ii) is at least three feet away from the outdoor area of such restaurant not designated for smoking, *or using electronic cigarettes*; and (iii) is clearly designated with written signage as a smoking area *or an area for using electronic cigarettes*.

2. Outdoor seating or viewing areas of open-air motion picture presentations or open-air concert, stage, dance, lecture or recital presentations or performances or other similar open-air presentations or performances, when seating or standing room is assigned by issuance of tickets.

3. Outdoor seating or viewing areas of sports arenas and recreational areas, when seating or standing room is assigned by issuance of tickets.

4. Outdoor areas of all children's institutions.

5. Playgrounds.

6. Hospital grounds, within fifteen feet of any hospital entrance or exit and within fifteen feet of the entrance to or exit from any hospital grounds.

7. Pedestrian plazas.

d. Smoking [is], *and using electronic cigarettes*, are prohibited in all indoor and outdoor areas of the following public places at all times:

1. All public and private pre-primary, primary, and secondary schools providing instruction for students at or below the twelfth-grade level, and any vehicles owned, operated or leased by such schools which are used to transport such students or the personnel of such schools.

2. All child day care centers; provided, however, that with respect to child day care centers operated in private residences, this paragraph shall apply only to those areas of such private residences where the child day care centers are operated during the times of operation or during the time employees are working in such child day care centers.

3. Any park or other property under the jurisdiction of the department of parks and recreation; provided, however, that this paragraph shall not apply to: (a) the sidewalks immediately adjoining parks, squares and public places; (b) any pedestrian route through any park strip, median or mall that is adjacent to vehicular traffic; (c) parking lots; and (d) theatrical productions.

§ 4. Section 17-504 of the administrative code of the city of New York, as amended by local law number 5 for the year 1995, subdivisions a, c, d, e, and i as amended by local law number 47 for the year 2002, is amended to read as follows:

§ 17-504 Regulation of smoking, *and use of electronic cigarettes*, in places of employment. a. Smoking [is], *and using electronic cigarettes*, are prohibited in those indoor areas of places of employment to which the general public does not generally have access. This section shall not prohibit smoking, *or using electronic cigarettes*, in any area where smoking, *or using electronic cigarettes*, is not regulated pursuant to section 17-505.

c. Smoking [is], *and using electronic cigarettes*, are prohibited in company vehicles occupied by more than one person. Smoking [is], *and using electronic cigarettes*, are prohibited in all vehicles owned by the city of New York.

d. No employer shall take any retaliatory adverse personnel action against any employee or applicant for employment on the basis of such person's exercise, or attempt to exercise, his or her rights under this chapter with respect to the place of employment. Such adverse personnel action includes, but is not limited to, dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, compensation or other benefit, failure to hire, failure to appoint, failure to promote, or transfer or assignment or failure to transfer or assign against the wishes of the affected employee. The employer shall establish a procedure to provide for the adequate redress of any such adverse personnel action taken against an employee in retaliation for that employee's attempt to exercise his or her rights under this chapter with respect to the place of employment.

e. By November 1, 1995, every employer subject to the provisions of this chapter shall adopt, implement, make known, maintain and update to reflect any changes, a written smoking *and electronic cigarette use* policy which shall contain at minimum, the following requirements:

1. The prohibition of smoking, *and using electronic cigarettes*, except in accordance with the provisions of this chapter and any rules promulgated pursuant thereto, and a description of the smoking restrictions *and restrictions on the use of electronic cigarettes* adopted or implemented.

2. As set forth in subdivision d of this section, the (A) protection from retaliatory adverse personnel action with respect to all employees or applicants for employment who exercise, or attempt to exercise, any rights granted under such subdivision; and (B) the establishment of a procedure to provide for the adequate redress of any such adverse personnel action taken against an employee in retaliation for that employee's attempt to exercise his or her rights under this chapter with respect to the place of employment.

f. Employers shall prominently post the smoking *and electronic cigarette use* policy in the workplace, and shall, within three weeks of its adoption and any modification, disseminate the policy to all employees, and to new employees when hired.

g. Employers shall supply a written copy of the smoking *and electronic cigarette use* policy upon request to any employee or prospective employee.

h. A copy of the smoking *and electronic cigarette use* policy shall be provided to the department, the department of buildings, the department of consumer affairs, the department of environmental protection, the fire department and the department of sanitation upon request.

i. This section shall not be construed to permit smoking, *and using electronic cigarettes*, in any area in which smoking [is], *and using electronic cigarettes*, are prohibited or restricted pursuant to section 17-503. Where a place of employment is also a public place where smoking [is], *and using electronic cigarettes*, are prohibited or restricted pursuant to section 17-503, and is not exempt from regulation under section 17-505, smoking, *and using electronic cigarettes*, shall be prohibited.

j. Nothing in this section shall be construed to impair, diminish, or otherwise affect any collectively bargained procedure or remedy available to an employee, existing as of February 1, 1995, with respect to disputes arising under the employer's smoking policy or with respect to the establishment of a procedure for redress of any adverse personnel action taken against an employee in retaliation for that employee's attempt to exercise his or her rights under this chapter with respect to the place of employment. Upon expiration of any such collectively bargained procedure or remedy, the provisions of this section shall take effect.

§ 5. Section 17-505 of the administrative code of the city of New York, as amended by local law number 5 for the year 1995, and subdivision h as amended by local law number 47 for the year 2002, is amended to read as follows:

§ 17-505 Areas where smoking [is], *and using electronic cigarettes*, are not regulated by this chapter.

The following areas shall not be subject to the smoking *and electronic cigarette* restrictions of this chapter; provided however, that nothing in this section shall be construed to permit smoking, *or using electronic cigarettes*, where smoking [is], *and using electronic cigarettes*, are otherwise prohibited or restricted by any other law or rule:

b. Private residences, except any area of a private residence where a child day care center or health care facility is operated (i) during the times of operation or (ii) during the times when employees are working in such child day care center or health care facility areas; provided, however, that a common area of a multiple dwelling

containing ten or more dwelling units shall be subject to smoking *and electronic cigarette* restrictions.

- c. Hotel and motel rooms occupied by, or available for, occupancy by guests.
- f. Private automobiles.
- g. Retail tobacco stores.

h. Enclosed rooms in restaurants, bars, catering halls, convention halls, hotel and motel conference rooms, and other such similar facilities during the time these enclosed areas or rooms are being used exclusively for functions where the public is invited for the primary purpose of promoting and sampling tobacco products *or electronic cigarettes*, and the service of food and drink is incidental to such purpose, provided that the operator of such function shall have provided notice to the department of health and mental hygiene in a form satisfactory to such department at least two weeks before such a function begins, and such notice has identified the dates on which such function shall occur. No such facility may permit smoking, *or using electronic cigarettes*, under this subdivision for more than five days in any calendar year.

i. Retail *electronic cigarette* stores; provided however, that such stores may only permit the use of *electronic cigarettes*.

§ 6. Subdivisions a, b and c of section 17-506 of the administrative code of the city of New York, subdivision a as amended by local law number 5 for the year 1995, subdivision b as amended by local law number 47 for the year 2002, and subdivision c as added by local law number 5 for the year 1995, are amended to read as follows:

a. Except as may otherwise be provided by rules promulgated by the commissioner, "Smoking" or "No Smoking" signs, or the international symbols indicating the same, "*Electronic Cigarette Use Permitted*" or "*Electronic Cigarette Use Prohibited*" signs, and any other signs necessary to comply with the provisions of this chapter shall be prominently and conspicuously posted where smoking [is], *and using electronic cigarettes*, are either prohibited, permitted or otherwise regulated by this chapter, by the owner, operator, manager or other person having control of such area. The size, style and location of such signs shall be determined in accordance with rules promulgated by the commissioner, but in promulgating such rules, the commissioner shall take into consideration the concerns of the various types of establishments regulated herein with respect to the style and design of such signs.

b. In addition to the posting of signs as provided in subdivision a, every owner, manager or operator of a theatre which exhibits motion pictures to the public shall show upon the screen for at least five seconds prior to the showing of each feature motion picture, information indicating that smoking [is], *and using electronic cigarettes*, are prohibited within the premises.

c. The owner, operator or manager of a hotel or motel that chooses to develop and implement a smoking *and electronic cigarette use* policy for rooms rented to guests shall post a notice at the reception area of the establishment as to the availability, upon request, of smoke-free *and electronic cigarette-free* rooms.

§ 7. Subdivisions c, d and e of section 17-507 of the administrative code of the city of New York, subdivision c as amended and subdivisions d and e as added by local law number 5 for the year 1995, are amended to read as follows:

c. With respect to a public place or place of employment, the operator or employer shall inform, or shall designate an agent who shall be responsible for informing, individuals smoking, *or using electronic cigarettes*, in restricted areas that they are in violation of this local law; provided, however, that the obligations under this subdivision with respect to an operator of a multiple dwelling containing ten or more dwelling units shall be limited to (i) those multiple dwellings where an agent is on duty and (ii) designating such agent to be responsible for informing individuals smoking, *or using electronic cigarettes*, in restricted common indoor areas where such agent is on duty, during the times such agent is on duty, that such individuals are in violation of this local law.

d. Where an owner or building manager of a public place where smoking [is], *and using electronic cigarettes*, are prohibited or restricted pursuant to section 17-503 is not the operator of such public place but has an agent on duty in such place, the owner or building manager shall designate such agent to inform individuals smoking, *or using electronic cigarettes*, in restricted common indoor areas (i) where such agent is on duty and (ii) during the times when such agent is on duty, that such individuals are in violation of this local law.

e. Where an owner or building manager of a building in which a place of employment is located where smoking [is], *and using electronic cigarettes*, are prohibited or restricted pursuant to section 17-504 is not the operator or employer of such place of employment but has an agent on duty in such place, the owner or building manager shall designate such agent to inform individuals smoking, *or using electronic cigarettes*, in restricted common indoor areas (i) where such agent is on duty and (ii) during the times when such agent is on duty, that such individuals are in violation of this local law. Such owner or building manager shall also mail a notice to tenants operating such place of employment, informing such tenants of their obligations under this chapter with respect to such restricted common indoor areas. A copy of the mailed notice shall be provided to the department upon request.

§ 8. Subdivisions a, b, d, e and f of section 17-508 of the administrative code of the city of New York, subdivision a as amended by local law number 47 for the year 2002, subdivision b as amended by local law number 5 for the year 1995, subdivision d as added by local law number 2 for the year 1988, and subdivisions e and f as amended by local law number 11 for the year 2011, are amended to read as follows:

a. It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of premises in which smoking [is], *and using electronic cigarettes*, are prohibited or restricted pursuant to this chapter, or the designated agent thereof, to (i) provide a room designated for smoking, *or using electronic cigarettes*, including, but not limited to, a separate smoking room, *room for using electronic cigarettes* or an enclosed room, which fails to comply with the provisions of this chapter; provided, however, that the obligations of an owner or building manager of a

building (where such owner or building manager of a building in which a public place is located is not the operator or employer of such public place) with respect to such a room shall be limited to work authorized by any permits necessary to perform construction obtained by the owner or his or her agent; (ii) fail to post the signs required by section 17-506; (iii) fail to remove ashtrays as required by subdivision d of section 17-506; or (iv) fail to make a good faith effort to comply with subdivisions c, d and e of section 17-507. In actions brought for violations of this subdivision, the following shall be affirmative defenses: (i) that during the relevant time period actual control of the premises was not exercised by the respondent or a person under the control of the respondent, but rather by a lessee, sublessee or any other person; provided, however, that after receiving the notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that he or she has not exercised actual control during the relevant time period; (ii) that a person smoking, *or using an electronic cigarette*, in any area where smoking [is], *and using electronic cigarettes*, are prohibited pursuant to section 17-503 was informed by a person who owns, manages, operates or otherwise controls the use of such premises, or the designated agent thereof, that such person smoking, *or using an electronic cigarette*, is in violation of this local law and that such person who owns, manages, operates or otherwise controls the use of such premises has complied with all applicable provisions of this chapter during the relevant time period; provided, however, that after receiving notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that respondent informed the person smoking, *or using an electronic cigarette*, in any area where smoking [is], *and using electronic cigarettes*, are prohibited pursuant to section 17-503 that such person was in violation of this local law and that respondent has complied with all applicable provisions of this chapter during the relevant time period; or (iii) that a person smoking, *or using an electronic cigarette*, in any restricted common indoor area where smoking [is], *and using electronic cigarettes*, are prohibited pursuant to section 17-503 was not informed by the owner or building manager of the premises (where such owner or building manager of a building in which a public place or a place of employment is located is not the operator or employer of such public place or place of employment) or by the operator of a multiple dwelling containing ten or more dwelling units that such person smoking, *or using an electronic cigarette*, is in violation of this local law because such owner, building manager or operator did not have a designated agent on duty when such person was smoking, *or using an electronic cigarette*, and that such owner or building manager has, where applicable, complied with the mailing of a notice required pursuant to subdivision e of section 17-507; provided, however, that after receiving notice of violation, the respondent submits to the department within five business days, by certified mail, a sworn affidavit and other such proof as may be necessary, indicating that a person smoking, *or using an electronic cigarette*, in any restricted common indoor area where smoking [is], *and using electronic cigarettes*, are prohibited pursuant to section 17-503 was not informed by the respondent that such person smoking, *or using an electronic cigarette*, is in violation of this local law because the respondent did not have a designated agent on duty when such person was smoking, *or using an electronic cigarette*, and that the respondent has, where applicable, mailed the notice required pursuant to subdivision e of section 17-507.

b. It shall be unlawful for an employer whose place of employment is subject to regulation under section 17-504 to fail to comply with the provisions of that section, including, but not limited to, those provisions requiring the adoption, implementation, dissemination and maintenance of a written smoking *and electronic cigarette use* policy which conforms to the requirements of subdivision e of section 17-504, or to fail to make a good faith effort to comply with subdivision c of section 17-507. In actions brought for violations of this subdivision, it shall be an affirmative defense that the employer (i) has made good faith efforts to insure that employees comply with the provisions of such written smoking *and electronic cigarette use* policy and (ii) has complied with all applicable provisions of this chapter.

d. It shall be unlawful for any person to smoke, *or use an electronic cigarette*, in any area where smoking [is], *and using electronic cigarettes*, are prohibited under section 17-503 and section 17-504.

e. Every person who violates subdivisions a or b of this section shall, for a first violation thereof, be liable for a civil penalty of not less than two hundred dollars nor more than four hundred dollars; for a second violation, both of which were committed within a period of twelve months, be liable for a civil penalty of not less than five hundred dollars nor more than one thousand dollars; and for a third or subsequent violation, all of which were committed within a period of twelve months, be liable for a civil penalty of not less than one thousand dollars nor more than two thousand dollars. Every person who violates subdivision d of this section shall be liable for a civil penalty of one hundred dollars for each violation, except that every person who violates subdivision d of this section by smoking, *or using an electronic cigarette*, in a pedestrian plaza as prohibited by paragraph seven of subdivision c of section 17-503 or in a park or other property under the jurisdiction of the department of parks and recreation as prohibited by paragraph three of subdivision d of section 17-503 shall be liable for a civil penalty of fifty dollars for each violation.

f. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision e of this section shall be commenced by the service of a notice of violation which shall be returnable to the administrative tribunal established by the board of health, except that a proceeding to recover a civil penalty authorized pursuant to subdivision e for violation of subdivision d by smoking, *or using an electronic cigarette*, in a pedestrian plaza or in a park or other property under the jurisdiction of the department of parks and recreation, as prohibited by paragraph seven of subdivision c and by paragraph three of subdivision d of section 17-503 respectively, shall be commenced by the service of a notice of violation which shall be returnable to the environmental control board. The board of health's administrative

tribunal and the environmental control board shall have the power to impose the civil penalties prescribed by subdivision e of this section.

§ 9. Section 17-510 of the administrative code of the city of New York, as added by local law number 2 for the year 1988, is amended to read as follows:

§ 17-510 Public education. The department shall engage in a continuing program to explain and clarify the provisions and purposes of this chapter and shall provide assistance to those persons who seek to comply, and to those who want to stop smoking, *or using electronic cigarettes*.

§ 10. Subdivisions a, b and d of section 17-512 of the administrative code of the city of New York, subdivision a as added by local law number 2 for the year 1988, subdivision b as added by local law number 5 for the year 1995, and subdivision d as added by local law number 2 for the year 1988 and relettered by local law number 5 for the year 1995, are amended to read as follows:

a. Nothing in this chapter shall be construed to permit smoking, *or using electronic cigarettes*, where it is otherwise prohibited by law or regulation.

b. Nothing in this chapter shall be construed to prohibit owners, operators, managers, employers or other persons having control of any establishment subject to this chapter from adopting a smoke-free *and electronic cigarette-free* policy which completely prohibits smoking, *and using electronic cigarettes*, on the premises of such establishment at all times.

d. Nothing in this chapter shall be construed to preclude owners, operators, managers, employers or other persons having control of any establishment covered by this act from prohibiting smoking, *and using electronic cigarettes*, in such establishment to a greater extent than is provided by this chapter, in accordance with applicable law.

§ 11. Section 17-513.2 of the administrative code of the city of New York, as added by local law number 47 for the year 2002, is amended to read as follows:

§ 17-513.2 Construction.

The provisions of this chapter shall not be interpreted or construed to permit smoking, *or using electronic cigarettes*, where it is prohibited or otherwise restricted by other applicable laws, rules or regulations.

§ 12. Chapter 5 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-513.3 to read as follows:

§ 17-513.3 *Retail tobacco store and retail electronic cigarette store registration.*

It shall be unlawful for any individual to operate a retail tobacco store or a retail electronic cigarette store without having registered with the department in accordance with the rules of the department.

§ 13. Chapter 5 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-513.4 to read as follows:

§ 17-513.4 *Retail tobacco store and retail electronic cigarette store verification.*

The department shall promulgate rules and regulations necessary to establish a system for review and verification of total annual gross sales of retail tobacco stores and retail electronic cigarette stores.

§ 14. Before the ninetieth day after this local law shall have become a law, every employer shall make any changes necessary in their written smoking policy to bring them into compliance with the requirements of chapter 5 of title 17 of the administrative code of the city of New York.

§ 15. This local law shall take effect one hundred twenty days after it shall have become a law, except that subdivisions (a) and (b) of section 17-506 of the administrative code of the city of New York, as amended by section six of this local law, shall take effect one hundred eighty days after this local law takes effect, provided however, that the commissioner shall take such actions, including the promulgation of rules, as are necessary for timely implementation of this local law.

MARIA del CARMEN ARROYO, Chairperson; JOEL RIVERA, PETER F. VALLONE, Jr., ALBERT VANN, INEZ E. DICKENS, ROSIE MENDEZ, MATTHIEU EUGENE, DEBORAH L. ROSE, JAMES G. VAN BRAMER; Committee on Health, December 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).

Reports of the Committee on Housing and Buildings

Report for Int. No. 1056-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, 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 in relation to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, with differences that reflect the unique character of the city and clarifying and updating administration and enforcement of such codes and the 1968 code, and repealing section 27-123.1 of the administrative code of the city of New York, subarticle 2 of article 2 of subchapter 4 of chapter 1 of title 27 of the administrative code of the city of New York, articles 8, 9 and 10 of subchapter 4 of chapter 1 of title 27 of the administrative code of the city of New York and reference standard RS 4 of the building code

Reference Standards set forth in the appendix to chapter 1 of title 27 of the administrative code of the city of New York.

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 12, 2013 (Minutes, page 1922), respectfully

REPORTS:

Introduction and Procedural History

On December 19, 2013, the Committee on Housing and Buildings, chaired by Council Member Erik Martin Dilan, will conduct a hearing on Proposed Int. No. 1056-A. (Due to the size of the bill, a copy of the full text of the bill is available online at legistar.council.gov and by accessing the portable storage device containing an electronic copy of the bill attached to this report.)

On June 25, 2013, the Committee heard Int. No. 1056 and received testimony from the Department of Buildings (DOB) and interested members of the public.

Background

For background information, please refer to the Report of the Infrastructure Division concerning the Committee's June 25, 2013 hearing on Int. No. 1056, which is available online at legistar.council.gov.

Proposed Int. No. 1056

Proposed Int. No. 1056-A updates the City's Plumbing Code, Building Code, Mechanical Code, and Fuel Gas Code to be consistent with the International Plumbing Code, the International Building Code, the International Mechanical Code, and the International Fuel Gas Code. The bill also amends the city's Administrative Code.

Amendments to Int. No. 1056

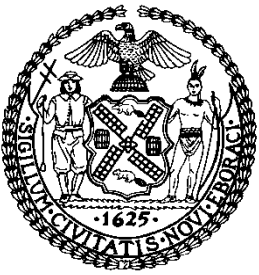
The following portions of Int. No. 1056 have been substantively amended:

- **Administrative Code:** Chapters 1 (Administration), 2 (Enforcement), 3 (Maintenance of Buildings) and 4 (Licensing and Registration of Business Trades and Occupations Engaged in Buildings Work) of title 28.
- **Plumbing Code:** Chapter 1 (Administration), 2 (Definitions), 3 (General Regulations), 6 (Water Supply and Distribution) and 13 (Referenced Standards).
- **Building Code:** Chapter 3 (Use and Occupancy Classification), 4 (Special Detailed Requirements Based on Use and Occupancy), 5 (General Building Heights and Areas; Separation of Occupancies), 6 (Types of Construction), 9 (Fire Protection Systems), 10 (Means of Egress), 11 (Accessibility), 16 (Structural Design), 18 (Soils and Foundations), 24 (Glass and Glazing), 30 (Elevators and Conveying Systems), 31 (Special Construction), 33 (Safeguards During Construction), 35 (Referenced Standards) and appendix G (Flood-Resistant Construction), P (R-2 Occupancy Toilet and Bathing Facilities Requirements) and S (Supplementary Figures for Luminous Egress Path Markings).
- **Mechanical Code:** Chapter 9 (Specific Appliances, Fireplaces and Solid Fuel-Burning Equipment) and 13 (Fuel-Oil Piping and Storage).
- **Fuel Gas Code:** Chapter 4 (Gas Piping Installations).
- The effective date of the bill has been changed to October 1, 2014, with certain exceptions, and other already previously enacted local laws whose effective date was linked to Proposed Int. No. 1056-A have been amended to reflect such date.

Update

On Thursday, December 19, 2013, the Committee adopted this legislation. Accordingly, the Committee recommends its adoption.

(The following is the text of the Fiscal Impact Statement for Int. No. 1056-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: 1056-A

COMMITTEE:
Housing and
Buildings

TITLE: A Local Law to amend 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 in relation to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, with differences that reflect the unique character of the city and clarifying and updating administration and enforcement of such codes and the 1968 code.

SPONSOR(S): By Council Members Dilan, Comrie, Dickens, Koo, Richards and Rose (by request of the Mayor).

SUMMARY OF LEGISLATION: Proposed Intro. 1056-A updates the City's construction codes. This includes the Building Code, the Plumbing Code, the Mechanical Code, and the Fuel Gas Code.

In 2007, the Council passed Local Law 33, which overhauled the City's 40-year old construction codes and brought them in line with international codes. To ensure that the City's codes were regularly reviewed, Local Law 33 also required periodic updates based on changes to the international codes. Intro 1056-A represents the first such update.

The update process began in 2011. The Department of Buildings brought together a group of over 325 professionals from every corner of the industry, including architects, engineers, contractors, and representatives of labor, real estate, and government. These experts were formed into committees and, collectively, put in over 48,500 hours reviewing every line of the City's construction codes. That process took a little over 2 and 1/2 years, and culminated in the initial draft of Intro 1056, which was introduced and heard in June.

Since June, the Housing and Buildings Committee has been working closely with the Department of Buildings, the code revision committees, and other stakeholders to review the approximately 2,500-page bill in its entirety.

The result is a bill that would improve standards for the construction of new buildings and the alteration of existing buildings.

EFFECTIVE DATE: This bill would generally take effect on October 1, 2014.

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	\$0	\$0	\$0
Net	\$0	\$0	\$0

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

IMPACT ON EXPENDITURES: The legislation would have no impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Department of Buildings

ESTIMATE PREPARED BY: Nathan Toth, Deputy Director

ESTIMATED REVIEWED BY: Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on June 12, 2013 as Proposed Intro. 1056 and was referred to the Committees on Housing and Buildings. A hearing was held by the Committee on Housing and Buildings on June 25, 2013 and the bill was laid over. The legislation was amended, and the amended version, Proposed Intro. 1056-A will be heard by the Committee on Housing and Buildings on December 19, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1056-A on December 19, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the edited text of Int. No. 1056-A:)

Editor's Int No. 1056-A Note: The full text of Int No. 1056-A is over 2,470 pages long. Due to the sheer length of this bill, an edited version is printed below for the purposes of these Minutes. For the full text of this bill, please refer to the New York City Council website at <http://council.nyc.gov>. The edited version below contains the first paragraph of Section 1 and the entire sections 2, 3, and 4 of the bill. Parts A, B, C, D, and E of Section 1 have not been printed in these Minutes—these Parts contain the amendments bringing 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 up to date with the 2009 editions of the International Plumbing, Building, Mechanical, and Fuel Gas Codes published by the International Code Council with differences to accommodate the unique nature of construction in New York City (see Section 1. Legislative Intent below).

Int. No. 1056-A [edited]

By Council Members Dilan, Comrie, Dickens, Koo, Richards, Rose, Gennaro, Van Bramer and Halloran (by request of the Mayor).

A Local Law to amend 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 in relation to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, with differences that reflect the unique character of the city and clarifying and updating administration and enforcement of such codes and the 1968 code, and repealing section 27-123.1 and 27-123.2 of the administrative code of the city of New York, subarticle 2 of article 2 of subchapter 4 of chapter 1 of title 27 of the administrative code of the city of New York, articles 8, 9 and 10 of subchapter 4 of chapter 1 of title 27 of the administrative code of the city of New York and reference standard RS 4 of the building code Reference Standards set forth in the appendix to chapter 1 of title 27 of the administrative code of the city of New York.

Be it enacted by the Council as follows:

Section 1. Legislative intent. This local law implements sections 28-601.1, 28-701.1, 28-801.1 and 28-901.1 of the administrative code, which require triennial updates of 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 to reflect changes in the International Plumbing, Building, Mechanical and Fuel Gas Codes. These amendments will bring the New York city codes up to date with the 2009 editions of the International Plumbing, Building, Mechanical and Fuel Gas Codes published by the International Code Council, with differences to accommodate the unique nature of construction in the City. The local law is divided into parts A through E. Part A contains amendments to chapters 1 through 5 of title 28 of the administrative code in separately numbered sections within part A. Chapters 1 through 5 contain general provisions governing administration and enforcement of all such codes and the 1968 code. Parts B, C, D and E contain amendments to chapters 6 through 9 of title 28 of the administrative code and to the codes within such chapters-- chapter 6, containing the New York city plumbing code (part B); chapter 7, containing the New York city building code, (part C); chapter 8, containing the New York city mechanical code, (part D); and chapter 9, containing the New York city fuel gas code, (part E). Parts C, D and E are further divided into subparts with each subpart consisting of amendments to a chapter or appendix of the relevant code in separately numbered sections within the subpart.

[Editor's Note: Parts A, B, C, D, and E of Section 1 are not printed in these Minutes; please see Editor's Int No. 1056-A Note printed immediately above the text of this bill for further explanation]

Section 2. Notwithstanding any other law or rule, tables, figures or equations in PDF or other electronic format to be added to the New York city construction codes or amended pursuant to this local law need not be underlined to denote new matter being added. The absence of underlining to denote new matter being

added shall not affect the validity of new tables, figures or equations in PDF or other electronic format to be added to the New York city construction codes or amended pursuant to this local law.

Section 3. Section 3 of local law number 41 for the year 2012 is amended to read as follows:

§3. This local law shall take effect [on the same date as the effective date of a local law amending the administrative code of the city of New York in relation to bringing the New York city building code up to date with the 2009 edition of the International Building Code published by the International Code Council] *on October 1, 2014 except that this local law shall not apply to plumbing work related to applications for construction document approval filed prior to such effective date.*

Section 4. Section 3 of local law number 79 for the year 2013 is amended to read as follows:

§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] *on October 1, 2014 except that this local law shall not apply to work related to applications for construction document approval filed prior to such effective date.*

Section 5. Section 6 of local law number 108 for the year 2013 is amended to read as follows:

§6. This local law shall take effect on [the same date that 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 introduction number 1056, takes effect] *October 1, 2014 except that this local law shall not apply to work related to applications for construction document approval filed prior to such effective date.*

Section 6. Section 4 of local law number 110 for the year 2013 is amended to read as follows:

§ 4. 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] *on October 1, 2014 except that this local law shall not apply to work related to applications for construction document approval filed prior to such effective date.*

Section 7. Section 16 of local law number 100 for the year 2013 is amended to read as follows:

§16. This local law shall take effect [on the same date that 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 introduction number 1056, takes effect] *on October 1, 2014 except that this local law shall not apply to work related to applications for construction document approval filed prior to such effective date.*

Section 8. Section 6 of local law number 101 for the year 2013 is amended to read as follows:

§6. 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] *October 1, 2014 except that this local law shall not apply to work related to applications for construction document approval filed prior to such effective date.*

Section 9. Section 4 of local law number 130 for the year 2013 is amended to read as follows:

§4. This local law shall take effect on [the same date that 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] *October 1, 2014 except that this local law shall not apply to work related to applications for construction document approval filed prior to such effective date.*

Section 10. Sections 27-123.1 and 27-123.2 of the administrative code of the city of New York are REPEALED.

Section 11. Subarticle 2 of article 2 of subchapter 4 of chapter 1 of title 27 of the administrative code of the city of New York is REPEALED.

Section 12. Articles 8, 9 and 10 of subchapter 4 of chapter 1 of title 27 of the administrative code of the city of New York are REPEALED.

Section 13. Reference Standard RS 4 of the Building Code Reference Standards set forth in the appendix to chapter 1 of title 27 of the administrative code of the city of New York is REPEALED.

Section 14. This local law shall take effect on October 1, 2014 except (i) that this local law shall not apply to construction work related to applications for construction document approval filed prior to such effective date (ii) sections 28-304.6.4, 28-304.6.5 and 28-304.6.6 of the administrative code of the city of New York as amended by section 61 of part A of this local law and sections 2 through 9 of this local law shall take effect immediately and (iii) section 403.5.2 of the New York city building code as added by section 1 of subpart 4 of part C of this local law shall take effect the later of 18 months after the date of enactment of this local law or the date of an amendment of the definition of floor area in the New York city zoning resolution providing for the exclusion of the floor area of the additional exit stairway and additional exit stairway width from the calculation of floor area for purposes of the New York city zoning resolution. The commissioner of buildings may promulgate rules or take other actions for the implementation of this local law prior to such effective date.

Part A (Chapters 1 through 5 of Title 28)

§1. Sections 28-101.1 and 28-101.2 of the administrative code of the city of New York, section 28-101.1 as amended by local law number 85 for the year 2009 and section 28-101.2 as amended by local law number 49 for the year 2010, are amended to read as follows:

ERIK MARTIN DILAN Chairperson; JOEL RIVERA, GALE A. BREWER, LEROY G. COMRIE, Jr., LEWIS A. FIDLER, ROBERT JACKSON, LETITIA JAMES, ROSIE MENDEZ, Committee on Housing and Buildings, December 19, 2013.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1056-A:)

THE CITY OF NEW YORK OFFICE OF THE MAYOR NEW YORK, N.Y. 10007

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend 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 in relation to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, with differences that reflect the unique character of the city and clarifying and updating administration and enforcement of such codes and the 1968 code, and repealing section 27-123.1 of the administrative code of the city of New York, subarticle 2 of article 2 of subchapter 4 of chapter 1 of title 27 of the administrative code of the city of New York, articles 8, 9 and 10 of subchapter 4 of chapter 1 of title 27 of the administrative code of the city of New York and reference standard RS 4 of the building code Reference Standards set forth in the appendix to chapter 1 of title 27 of the administrative code of the city of New York.

Given under my hand and seal this 19th day of December, 2013 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

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. 1102-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 improving hazardous materials storage pursuant to the New York city community right-to-know law.

The Committee on Housing and Buildings, to which the annexed amended proposed local law was referred on June 24, 2013 (Minutes, page 2109), respectfully

REPORTS:

Introduction and Procedural History

On December 19, 2013, the Committee on Housing and Buildings, chaired by Council Member Erik Martin Dilan, will conduct a hearing on Proposed Int. No. 1102-A.

On June 27, 2013, the Committee held a joint hearing with the Committees on Environmental Protection, Parks and Recreation, Transportation and Waterfronts on Proposed Int. No. 1102-A and twenty-two 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.

Hurricane Sandy and the Building Resiliency Task Force

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 caused roughly \$19 billion in “infrastructure and property damage and economic loss” to the city.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 “more than 200 dedicated volunteers who are leading experts in their fields” including “real estate owners, property managers, architects, engineers, contractors, utility representatives, subject matter specialists, city officials, code consultants, cost estimators and attorneys.”⁵ In June 2013, BRTF issued a report with 33 proposals for improving building resiliency in the city for both new and existing buildings.⁶ One of those BRTF proposals formed the basis for the bill now under consideration.

Flood-Prone Areas and Flood Construction Requirements

Generally, new or substantially improved buildings located in flood-prone areas within the city must comply with special flood construction requirements – for example, such buildings typically must have their lowest floors and utilities elevated above expected flood levels or be otherwise protected from floodwaters.⁷ The city’s flood-prone areas are delineated on “flood insurance rate maps” (“FIRMs”) that are issued by the Federal Emergency Management Agency (“FEMA”).⁸ The last substantial update to the city’s FIRMs was in 1983 – 30 years ago.⁹

FEMA is currently in the process of updating the city’s FIRMs.¹⁰ The agency released “preliminary work maps” in June 2013 and plans to release “preliminary FIRMs” sometime in the fall of 2013.¹¹ After a period of public comment and an appeal period, the City will adopt “final” FIRMs, which would become the city’s flood map and the official basis for identifying flood-prone areas.¹² The City and FEMA expect final FIRMs to take effect in early 2015.¹³

Safeguarding Hazardous Substances Stored in Flood Zones

The reality of climate change and sea-level rise is that the city is going to be increasingly vulnerable to coastal flooding and other extreme weather events. Facilities that store large quantities of hazardous substances are a particular source of concern. The accidental discharge of hazardous substances poses a serious risk to human life and wellbeing, and to the environment.

Currently, the NYC Department of Environmental Protection (“DEP” or “Department”) requires facilities that store hazardous substances to file a risk

management plan, but it does not require special protection for substances stored in flood zones. Proposed Int. No. 1102-A would require that facilities that store hazardous substances notify the city if such substances are located in a special flood hazard area or a hurricane evacuation zone. Facilities will also be required to certify that the storage of such hazardous substances complies with DEP storage rules, and all other federal, state and local laws, rules and regulations.

Proposed Int. No. 1102-A

Bill section one amends paragraphs 6 and 7 of subdivision (a) of section 24-705 of the Administrative Code of the City of New York (Ad. Code) to require certain buildings subject to the New York City Right-to-Know Act provide the following additional information on their required facility inventory form: (1) the applicable special flood hazard area zone, as established by appendix G of the New York City Building Code and the applicable New York City Office of Emergency Management coastal storm and hurricane evacuation zone; (2) a certification that the manner of storage of each hazardous substance is in compliance with DEP rules and all other applicable federal, state, and local laws, rules and regulations; and (3) a description of how such storage takes into account potential flooding and other extreme weather events.

Bill section two amends section 24-713 of the Ad. Code by adding a new subdivision (d) which would require that any person who violates any rule promulgated by DEP related to the proper siting and storage of hazardous substances, be subject to a civil penalty, returnable to the Environmental Control Board, in an amount not to exceed \$10,000. Further, each notice of violation must contain an order of the Commissioner directing such person, within 30 days from the date of the order, to correct the condition constituting the violation and to file with the Department, a certification that the condition has been corrected. In any proceeding before the Environmental Control Board, no civil penalty shall be imposed for a violation pursuant to this subdivision if such person complies with the Commissioner’s order to correct and to certify correction of the violation within 30 days.

Bill section three amends section 24-716 of the Ad. Code to require that the Commissioner on or before January 1, 2015, in consultation with the emergency response agencies, promulgate rules for the proper siting and storage of hazardous substances, taking into consideration all safety issues, including, but not limited to, spillage, fire, flooding, storm surge, earthquake, power outages and high winds. Furthermore, such rules may regulate hazardous substances individually or in groups, and may require that additional or alternative precautions be taken in advance of an anticipated extreme weather event.

Bill section four amends subdivision (c) of section 24-718 of the Ad. Code to require buildings subject to the New York City Right-to-Know Act that are located in a special flood hazard area, to include in the risk management plan that they file with DEP, a plan that takes into account extreme weather events, including potential flooding that may occur due to the location of a facility within a special flood hazard area, as established by appendix G of the New York City Building Code, or within a New York City Office of Emergency Management coastal storm and hurricane evaluation zone.

Bill section five contains the enactment clause and provides that this local law shall take effect 90 days after its enactment, except that the Commissioner of Environmental Protection shall take such measures as are necessary for its implementation prior to its effective date.

Amendments to Int. No. 1102

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 require that facilities that store hazardous substances now notify the city if such substances are located in a special flood hazard area or a hurricane evacuation zone. This section was also amended to require that facilities certify that the storage of such hazardous substances complies with DEP storage rules, and all other federal, state and local laws, rules and regulations.

Bill section two was amended to require that any person who violates any rule promulgated by DEP related to the proper siting and storage of hazardous substances be subject to a penalty for violating such siting rules of not more than \$10,000; however, if such violations are corrected within 30 days of a Notice of Violation no penalty will be issued.

Bill section three was added to require that the Commissioner of Environmental Protection, in consultation with the emergency response agencies, by January 1, 2015, promulgate rules related to the proper siting and storage of hazardous substances, taking into consideration all safety issues, including fire, flood and storm surge. The Commissioner may also require that additional or alternative precautions be taken in advance of an anticipated extreme weather event.

Bill section four was added to require that buildings subject to the New York City Right-to-Know Act located in a special flood hazard area, include in the risk management plan that they file with DEP, a plan that takes into account extreme weather events, including potential flooding that may occur due to the location of a facility within a special flood hazard area, as established by appendix G of the New York City Building Code, or within a New York City Office of Emergency Management coastal storm and hurricane evaluation zone.

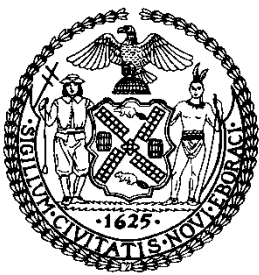
The provision that required extremely hazardous and regulated toxic substances to be located in areas that have been dry flood proofed in accordance with ASCE 24 or located on a story that is entirely above the design flood elevation was removed from the bill.

Update

On Thursday, December 19, 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>; Hurricane Sandy After Action Plan (May 2013), pg. 4, available online at http://www.nyc.gov/html/recovery/downloads/pdf/sandy_aar_5.2.13.pdf; Special Initiative for Rebuilding and Resiliency report, pgs. 11-18, available online at http://nytelecom.vo.llnwd.net/o15/agencies/sirr/SIRR_spreads_Lo_Res.pdf.
² SIRR report, pg. 5; After Action Plan, pg. 1.
³ SIRR report, pg. 34.
⁴ Mireya Navarro, "After Storm, Dry Floors Prove Value of Exceeding City Code," New York Times (Nov. 23, 2012), available online at http://www.nytimes.com/2012/11/24/science/earth/new-york-reassessing-building-code-to-limit-storm-damage.html?_r=0.
⁵ BRTF report, pg. 4, available online at <http://www.urbangreencouncil.org/BuildingResiliency>.
⁶ BRTF report, pg. 5.
⁷ See BC §§ G102.1 and G304.
⁸ See 2008 Building Code ("BC") § G201.2.
⁹ SIRR website, "FEMA Flood Map Update," available online at http://www.nyc.gov/html/sirr/html/map/flood_map_update.shtml.
¹⁰ *Id.*
¹¹ *Id.*
¹² See *id.* and FEMA, "Adoption of Flood Insurance Rate Maps by Participating Communities," available online at http://www.fema.gov/media-library-data/20130726-1903-25045-4716/fema_495.pdf.
¹³ *Id.*

(The following is the text of the Fiscal Impact Statement for Int. No. 1102-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: 1102-A
 COMMITTEE:
 Housing and
 Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to improving hazardous materials storage pursuant to the New York city community right-to-know law.

SPONSOR(S): By Council Members Van Bramer, Chin, Ferreras, James, Koo, Lander, Mendez, Palma, Rose, Mark-Viverito and Ulrich.

SUMMARY OF LEGISLATION: Proposed Intro. 1102-A strengthens the New York City Community Right-to-Know Act in a number of ways. It requires that facilities that store hazardous substances now notify the City if such substances are located in a special flood hazard area or a hurricane evacuation zone. Facilities will also be required to certify that the storage of such hazardous materials complies with DEP storage rules, and all other federal, State and local laws, rules and regulations.

The Commissioner of Environmental Protection shall promulgate such storage rules, in consultation with the emergency response agencies, by January 1, 2015, taking into consideration all safety issues, including fire, flood and storm surge. The Commissioner may require additional or alternative precautions be taken in advance of an anticipated extreme weather event. The penalty for violating these siting rules is not more than ten thousand dollars, however, such violations are correctable with no penalty within 30 days of a Notice of Violation.

Facilities that store extremely hazardous materials and regulated toxic materials, as determined by the federal Environmental Protection Agency, shall consider flooding and other extreme weather events in their emergency response and risk assessment programs.

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

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2014

FISCAL IMPACT STATEMENT:

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

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

IMPACT ON EXPENDITURES: The legislation would have no impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Nathan Toth, Deputy Director

ESTIMATED REVIEWED BY: Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on June 24, 2013 as Proposed Intro. 1102 and was referred to the Committees on Housing and Buildings, Environmental Protection, Parks, Transportation and Waterfronts. A joint hearing was held by the Committees on Housing and Buildings, Environmental Protection, Parks and Recreation, Transportation, and Waterfronts on June 27, 2013 and the bill was laid over. The legislation was amended, and the amended version, Proposed Intro. 1102-A will be heard by the Committee on Housing and Buildings on December 19, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1102-A on December 19, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1102-A:)

Int. No. 1102-A

By Council Members Van Bramer, Chin, Ferreras, James, Koo, Lander, Mendez, Palma, Rose, Mark-Viverito, Gennaro, Koppell and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to improving hazardous materials storage pursuant to the New York city community right-to-know law.

Be it enacted by the Council as follows:

Section 1. Paragraphs 6 and 7 of subdivision a of section 24-705 of the administrative code of the city of New York, as added by local law number 26 for the year 1988, are amended to read as follows:

(6) an estimate, in ranges of the maximum amount and average daily amount, of the number of days located at the facility, and the specific location of each hazardous substance present at the facility at any time during the preceding calendar year, and, for each such specific location, the applicable special flood hazard area zone, as established by section G102.2 of appendix G of the New York city building code, if any, and the applicable New York city office of emergency management coastal storm and hurricane evacuation zone, if any;

(7) a brief description of the manner of storage of each hazardous substance present at the facility, a certification that such storage is in compliance with department rules promulgated pursuant to this chapter and all other applicable federal, state, and local laws, rules, and regulations, and a description of how such storage takes into account potential flooding and other extreme weather events; and

§ 2. Section 24-713 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

(d) Any person who violates any rule promulgated pursuant to subdivision b of section 24-716 of this chapter shall be subject to a civil penalty, returnable before the environmental control board, in an amount not to exceed ten thousand dollars. Each notice of violation shall contain an order of the commissioner directing such person, within thirty days from the date of the order, to correct the condition constituting the violation and to file with the department electronically, or in such other manner as the department shall authorize, a certification that the condition has been corrected. In any proceeding before the board, no civil penalty shall be imposed for a violation pursuant to this subdivision if such person complies with the commissioner's order to correct and to certify correction of the violation within thirty days.

§ 3. Section 24-716 of the administrative code of the city of New York, as added by local law number 26 for the year 1988, is amended to read as follows:

§24-716 Regulations. (a) The commissioner shall have the power to promulgate such rules and regulations as may be necessary to carry out the purposes of this chapter.

(b) On or before January first, two thousand fifteen, the commissioner shall, in consultation with the emergency response agencies, promulgate rules for the proper siting and storage of hazardous substances, taking into consideration all safety issues, including, but not limited to, spillage, fire, flooding, storm surge, earthquake, power outages, and high winds. Such rules may regulate hazardous substances individually or in groups, and may require that additional or alternative precautions be taken in advance of an anticipated extreme weather event.

§ 4. Subdivision c of section 24-718 of the administrative code of the city of New York, as added by local law number 92 for the year 1993, is amended to read as follows:

(c) [On or before July first, nineteen hundred ninety-four, the] The commissioner, in consultation with the emergency response agencies, shall by rule establish the contents of a risk management plan, which shall be designed to prevent the accidental release and to minimize the consequences of any such release of any extremely hazardous or regulated toxic substance. Such plan shall take into account extreme weather events, including potential flooding that may occur due to the location of a facility within a special flood hazard area, as established by section G102.2 of appendix G of the New York city building code, or within a New York city office of emergency management coastal storm and hurricane evacuation zone. The plan shall include but need not be limited to: (1) a site plan; (2) a safety review of design for new and existing equipment and processes; (3) an emergency response program, [including] which shall consider flooding and other extreme weather events and shall include an emergency response plan, emergency response training, and emergency response exercises; (4) standard operating procedures; (5) a preventive maintenance program for equipment; (6) a training program for equipment operators, including duration and type of training, and retraining; (7) accident investigation procedures; and (8) a risk assessment program, including a hazard analysis, [and] a consideration of the use of alternate equipment and alternate substances, and the risk of an accidental release caused by an extreme weather event.

§ 5. This local law shall take effect ninety days after enactment, except that the commissioner of environmental protection shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

ERIK MARTIN DILAN Chairperson; JOEL RIVERA, GALE A. BREWER, LEROY G. COMRIE, Jr., LEWIS A. FIDLER, JAMES F. GENNARO, ROBERT JACKSON, LETITIA JAMES, ROSIE MENDEZ, ELIZABETH S. CROWLEY, JUMAANE D. WILLIAMS, ERIC A. ULRICH; Committee on Housing and Buildings, December 19, 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. 961

Report of the Committee on Land Use in favor of approving Application No. C 140047 ZSK submitted by Waterview at Greenpoint LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 62-836 of the Zoning Resolution to modify the height and setback requirements of Section 62-341 (Developments on land and platforms) and Section 62-354 (Special height and setback regulations) in connection with a proposed mixed-use development on property located at 77 Commercial Street (Block 2472, Lot 410), in R6 and R6/C2-4 Districts, in the Borough of Brooklyn, Community District 1, Council District 33.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on November 14, 2013 (Minutes, page 4796), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 1

C 140047 ZSK

City Planning Commission decision approving an application submitted by Waterview at Greenpoint, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 62-836 of the Zoning Resolution to modify the height and setback requirements of Section 62-341 (Developments on land and platforms) and Section 62-354 (Special height and setback regulations) in connection with a proposed mixed-use development on property located at 77 Commercial Street (Block 2472, Lot 410), in R6 and R6/C2-4 Districts.

INTENT

This grant of a special permit in conjunction with the other related actions would facilitate the construction of an approximately 647,851 square foot mixed-use development, including 720 units of housing (including 200 affordable units), 25,000 square feet of ground floor retail, community facility space and public open space along the Newtown Creek in Greenpoint, Community District 1, Brooklyn.

PUBLIC HEARING

DATE: December 5, 2013

Witnesses in Favor: Four

Witnesses Against: Eighteen

SUBCOMMITTEE RECOMMENDATION

DATE: December 19, 2013

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

In Favor: Weprin, Rivera, Reyna, Comrie, Jackson, Vann, Garodnick, Lappin, Ignizio

Against: None

Abstain: None

COMMITTEE ACTION

DATE: December 19, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Rivera, Reyna, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Koo, Lander, Levin, Weprin, Williams, Ignizio

Against: Barron

Abstain: None

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

Res. No. 2097

Resolution approving the decision of the City Planning Commission on ULURP No. C 140047 ZSK (L.U. No. 961), for the grant of a special permit pursuant to Sections 62-836 of the Zoning Resolution of the City of New York to modify the height and setback requirements of Section 62-341 (Developments on land and platforms) and Section 62-354 (Special height and setback regulations) in connection with a proposed mixed-use development on property located at 77 Commercial Street (Block 2472, Lot 410), in R6 and R6/C2-4 Districts, Borough of Brooklyn.

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on November 8, 2013 its decision dated November 6, 2013 (the "Decision"), on the application submitted by Waterview at Greenpoint, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 62-836 of the Zoning Resolution to modify the height and setback requirements of Section 62-341 (Developments on land and platforms) and Section 62-354 (Special height and setback regulations) in connection with a proposed mixed-use development on property located at 77 Commercial Street (Block 2472, Lot 410), in R6 and R6/C2-4 Districts (ULURP No. C 140047 ZSK), Community District 1, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to Applications N 140046 ZRK (L.U. No. 962), with the Department of City Planning as co-applicant, an amendment to the Zoning Resolution modifying Sections 11-13 and 62-351 to permit future adjacent parkland to continue to generate development rights on Parcel 4 within the Waterfront Access Plan BK-1 and N 140048 ZAK (L.U. No. 963), an Authorization by the City Planning Commission pursuant to Section 62-822(a) to modify the location, area, and dimension requirements of Section 62-50 for waterfront public access areas and visual corridors;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 62-836 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on December 5, 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 revised negative declaration (CEQR No. 14DCP010K), issued on November 6, 2013 (the “Revised Negative Declaration”).

RESOLVED:

Having considered the Decision and Application, the Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the Zoning Resolution of the City of New York and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 140047 ZSK, incorporated by reference herein, the Council approves the Decision, subject to the following conditions:

1. The properties that are the subject of the related application (N 140047 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by Cetra/CRI Architecture PLLC and MPFP LLP, filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-03	Site Plan	07/30/2013
Z-03.1	Tower Details	07/30/2013
Z-05	Zoning Calculations	
Z-06	Base Height, Building Height, Setback and Bulkhead Modifications - Plan	07/30/2013
Z-06.1	Base Height, Building Height, Setback and Bulkhead Modifications – Section 1	07/30/2013
Z-06.2	Base Height, Building Height, Setback and Bulkhead Modifications – Sections 2 and 3	07/30/2013
Z-06.3	Base Height, Building Height, Setback and Bulkhead Modifications – Section 4	07/30/2013
Z-06.4	Base Height, Building Height, Setback and Bulkhead Modifications – Section 5 and 6	07/30/2013

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application.
3. Such development shall conform to all applicable laws and regulations relating to its construction and maintenance.
4. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
5. Development pursuant to this resolution shall be allowed only after the restrictive declaration attached to the City Planning Commission Report C 140047 ZSK, with such administrative and technical changes as are acceptable to Counsel to the City Planning Commission, and subject to the approval of the New York City Corporation Counsel for the insurance provisions and the indemnification provisions, has been executed and recorded in the Office of the City Register, Kings County. Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.
6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign or legal representative of such party to observe any of the restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the authorization hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said authorization. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission or of any agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the

development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission to disapprove any application for modification, cancellation or amendment of the authorization.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, December 19, 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. 962

Report of the Committee on Land Use in favor of approving Application No. N 140046 ZRK submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution, concerning Section 11-13 (Public Parks) and Section 62-35 (Special Bulk Regulations in Certain Areas Within Community District 1, Brooklyn), relating to the development of parkland, in the Borough of Brooklyn, Community District 1, Council District 33.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on November 14, 2013 (Minutes, page 4796), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 1

N 140046 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, concerning Section 11-13 (Public Parks) and Section 62-35 (Special Bulk Regulations in Certain Areas Within Community District 1, Brooklyn), relating to the development of parkland.

INTENT

This zoning text amendment in conjunction with the other related actions would facilitate the construction of an approximately 647,851 square foot mixed-use development, including 720 units of housing (including 200 affordable units), 25,000 square feet of ground floor retail, community facility space and public open space along the Newtown Creek in Greenpoint, Community District 1, Brooklyn.

PUBLIC HEARING

DATE: December 5, 2013

Witnesses in Favor: Four

Witnesses Against: Eighteen

SUBCOMMITTEE RECOMMENDATION

DATE: December 19, 2013

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

In Favor: Weprin, Rivera, Reyna, Comrie, Jackson, Vann, Garodnick, Lappin, Ignizio

Against: None

Abstain: None

COMMITTEE ACTION

DATE: December 19, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Rivera, Reyna, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Koo, Lander, Levin, Weprin, Williams, Ignizio
Against: Barron **Abstain:** None

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

Res. No. 2098

Resolution approving the decision of the City Planning Commission on Application No. N 140046 ZRK, for an amendment of the Zoning Resolution of the City of New York, concerning Section 11-13 (Public Parks) and Section 62-35 (Special Bulk Regulations in Certain Areas within Community District 1, Brooklyn), relating to the development of parkland in Community District 1, Borough of Brooklyn (L.U. No. 962).

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on November 8, 2013 its decision dated November 6, 2013 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of City Planning, for an amendment of the text of the Zoning Resolution of the City of New York, to facilitate the construction of an approximately 647,851 square foot mixed-use development with public waterfront esplanade along the Newtown Creek in Greenpoint at 77 Commercial Street, (Application No. N 140046 ZRK), Community District 1, Borough of Brooklyn (the "Application");

WHEREAS, the application is related to Applications C 140047 ZSK (L.U. No. 961), a Special Permit by the City Planning Commission pursuant to Section 62-836 to modify the height and setback requirements of Section 62-341 (Developments on land and platforms) and Section 62-354 (Special height and setback regulations) and N 140048 ZAK (L.U. No. 963), an Authorization by the City Planning Commission pursuant to Section 62-822(a) to modify the location, area, and dimension requirements of Section 62-50 for waterfront public access areas and visual corridors;

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 December 5, 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 revised negative declaration(CEQR No. 14DCP010K), issued on November 6, 2013 (the "Revised Negative Declaration").

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Negative Declaration.

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 140046 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 1
 Chapter 1
 Title, Establishment of Controls and Interpretation of Regulations**

* * *

11-10

ESTABLISHMENT AND SCOPE OF CONTROLS, ESTABLISHMENT OF DISTRICTS, AND INCORPORATION OF MAPS

* * *

11-13

Public Parks

District designations indicated on #zoning maps# do not apply to #public parks#, except as set forth in Section 105-91 (Special District Designation on Public Parks) and in paragraph (c) of Section 62-351 (Special floor area regulations). In the event that a #public park# or portion thereof is sold, transferred, exchanged, or in any other manner relinquished from the control of the Commissioner of Parks and Recreation, no building permit shall be issued, nor shall any #use# be permitted on such former #public park# or portion thereof, until a zoning amendment designating a zoning district therefore has been adopted by the City Planning Commission and has become effective after submission to the City Council in accordance with the provisions of Section 71-10 (PROCEDURE FOR AMENDMENTS).

* * *

**Article IV
 Chapter 2
 Special Regulations Applying in the Waterfront Area**

* * *

62-35

Special Bulk Regulations in Certain Areas Within Community District 1, Brooklyn

On #waterfront blocks# in #Inclusionary Housing designated areas# in Community District 1, Borough of Brooklyn, the special #bulk# regulations of this Chapter are further modified as set forth in this Section, inclusive.

62-351

Special floor area regulations

* * *

(c) Special regulations for Parcel 5e within Waterfront Access Plan BK-1

On Parcel 4 within Waterfront Access Plan BK-1, in the event that a property is #developed# as a #public park#, such property shall continue to be considered part of a #zoning lot# for the purposes of generating #residential floor area# based on the #residential floor area ratio# applicable to the property prior to its #development# as a #public park#. In no event shall the #floor area# generated by the property #developed# as a #public park# be utilized within the #public park#, but may be utilized pursuant to Section 62-353 (Special floor area, lot coverage and residential density distribution regulations). Floor space within any structure constructed pursuant to an agreement with the Department of Parks and Recreation within such #public park# shall be exempt from the definition of #floor area#.

* * *

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, December 19, 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. 963

Report of the Committee on Land Use in favor of approving Application No. N 140048 ZAK submitted by Waterview at Greenpoint LLC for the grant of an authorization pursuant to Section 62-822(a) of the Zoning Resolution to modify the location requirements of Section 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT

PUBLIC ACCESS AREAS), and in conjunction therewith the requirements of Section 62-332 (Rear yards and waterfront yards), in connection with a proposed mixed-use development on property located at 77 Commercial Street (Block 2472, Lot 410), in R6 and R6/C2-4 Districts, within the Greenpoint-Williamsburg Waterfront Access Plan (Parcel 3), in the Borough of Brooklyn, Community District 1, Council District 33. This application is subject to review of the Council only if called up by a vote of the Council pursuant to 62-822(a) of the NYC Zoning Resolution.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on November 14, 2013 (Minutes, page 4797), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 1

N 140048 ZAK

City Planning Commission decision approving an application submitted by Waterview at Greenpoint, LLC for the grant of an authorization pursuant to Section 62-822(a) of the Zoning Resolution to modify the location requirements of Section 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), and in conjunction therewith the requirements of Section 62-332 (Rear yards and waterfront yards), in connection with a proposed mixed-use development on property located at 77 Commercial Street (Block 2472, Lot 410), in R6 and R6/C2-4 Districts, within the Greenpoint-Williamsburg Waterfront Access Plan (Parcel 3).

INTENT

This authorization in conjunction with the other related actions would facilitate the construction of an approximately 647,851 square foot mixed-use development including 720 units of housing (including 200 affordable units), 25,000 square feet of ground floor retail, community facility space and public open space along the Newtown Creek in Greenpoint, Community District 1, Brooklyn.

PUBLIC HEARING

DATE: December 5, 2013

Witnesses in Favor: Four

Witnesses Against: Eighteen

SUBCOMMITTEE RECOMMENDATION

DATE: December 19, 2013

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

In Favor: Weprin, Rivera, Reyna, Comrie, Jackson, Vann, Garodnick, Lappin, Ignizio

Against: None **Abstain:** None

COMMITTEE ACTION

DATE: December 19, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Rivera, Reyna, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Koo, Lander, Levin, Weprin, Williams, Ignizio

Against: Barron **Abstain:** None

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

Res. No. 2099

Resolution approving the decision of the City Planning Commission for the grant of an authorization pursuant to Section 62-822(a) of the Zoning Resolution to modify the location requirements of Section 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), and in conjunction therewith the requirements of Section 62-332 (Rear yards and waterfront yards), in connection with a proposed mixed-use development on property located at 77 Commercial Street (Block 2472, Lot 410), in R6 and R6/C2-4 Districts,

within the Greenpoint-Williamsburg Waterfront Access Plan (Parcel 3), Borough of Brooklyn (Non-ULURP No. N 140048 ZAK; L.U. No. 963).

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on November 8, 2013 its decision dated November 6, 2013 (the "Decision"), on the application submitted by Waterview at Greenpoint, LLC for the grant of an authorization pursuant to Section 62-822(a) of the Zoning Resolution to modify the location requirements of Section 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS), and in conjunction therewith the requirements of Section 62-332 (Rear yards and waterfront yards), in connection with a proposed mixed-use development on property located at 77 Commercial Street (Block 2472, Lot 410), in R6 and R6/C2-4 Districts, within the Greenpoint-Williamsburg Waterfront Access Plan (Parcel 3), Community District 1, Borough of Brooklyn (Non-ULURP No. N 140048 ZAK) (the "Application");

WHEREAS, the application is related to Applications C 140047 ZSK (L.U. No. 961), a Special Permit by the City Planning Commission pursuant to Section 62-836 to modify the height and setback requirements of Section 62-341 (Developments on land and platforms) and Section 62-354 (Special height and setback regulations) and N 140046 ZRK (L.U. No. 962), with the Department of City Planning as co-applicant, an amendment to the Zoning Resolution modifying Sections 11-13 and 62-351 to permit future adjacent parkland to continue to generate development rights on Parcel 4 within the Waterfront Access Plan BK-1;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 62-822(a) of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on December 5, 2013;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 62-822(a)(1) of the Zoning Resolution of the City of New York;

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 revised negative declaration (CEQR No. 14DCP010K), issued on November 6, 2013 (the "Revised Negative Declaration").

RESOLVED:

Having considered the Decision and Application, the Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Negative Declaration.

Pursuant to Section 62-822(a) of the Zoning Resolution of the City of New York and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, N 140048 ZAK, incorporated by reference herein, the Council approves the Decision, subject to the following conditions:

1. The properties that are the subject of this application (N 140048 ZAK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by Cetra/CRI Architecture PLLC and MPFP LLC, filed with this application and incorporated in this resolution:

<u>Number</u>	<u>Title</u>	<u>Last Date Revised</u>
L-01	Survey	08/05/2013
L-02	Open Space Diagram	08/05/2013
L-03	Zoning Calculations	08/05/2013
L-04	Zoning Calculations	08/05/2013
L-100	Open Space Key & Dimension Plan	08/05/2013
L-101	Enlargement Plans	08/05/2013
L-102	Seating Plan	08/05/2013
L-200	Grading Plan	08/05/2013
L-300	Planting Plan	08/05/2013
L-400	Material Plan	08/05/2013
L-604	Site Section through Upland Connection	08/05/2013
L-604A	Upland Connection Enlarged Section	08/05/2013

L-700	Details	08/05/2013
L-701	Details	08/05/2013
L-702	Bench & Seating Details	08/05/2013
L-702A	Bench & Seating Details	08/05/2013
L-703	Planting Details	08/05/2013
L-704	Trellis Plan & Details	08/05/2013
L-705	Guardrail Details	08/05/2013
L-800	Lighting Plan	08/05/2013
L-801	Lighting Photometric Plan	08/05/2013
L-900	Signage Plan & Details	08/05/2013

- Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application.
- Such development shall conform to all applicable laws and regulations relating to its construction and maintenance.
- Development pursuant to this resolution shall be allowed only after the restrictive declaration attached to the City Planning Commission Report C 140047 ZSK, with such administrative changes as are acceptable to Counsel to the City Planning Commission, has been executed and recorded in the Office of the Register, Kings County. Such restrictive declaration shall be deemed incorporated herein as a condition of this resolution.
- Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign or legal representative of such party to observe any of the restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the authorization hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said authorization. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission or of any agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission to disapprove any application for modification, cancellation or amendment of the authorization.
- Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this authorization.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, December 19, 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. 987

Report of the Committee on Land Use in favor of approving Application no. 20145201 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Madison Global LLC, d/b/a Nello's, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 696 Madison Avenue, in the Borough of Manhattan, Community District 8, Council District 4. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(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 November 26, 2013 (Minutes, page 4925), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 8

20145201 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Madison Global LLC, d/b/a Nello's, for a revocable consent to continue to maintain and operate a small unenclosed sidewalk café located at 696 Madison Avenue.

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: December 5, 2013

Witnesses in Favor: Three

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: December 17, 2013

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

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

Against: None **Abstain:** None

COMMITTEE ACTION

DATE: December 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Rivera, Reyna, Barron, Jackson, Vann, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Levin, Weprin, Williams, Ignizio

Against: None **Abstain:** None

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

Res. No. 2100

Resolution approving the petition for a revocable consent for a small unenclosed sidewalk café located at 696 Madison Avenue, Borough of Manhattan (20145201 TCM; L.U. No. 987).

By Council Members Comrie and Weprin.

WHEREAS, the Department of Consumer Affairs filed with the Council on November 12, 2013 its approval dated November 8, 2013 of the petition of Madison Global LLC, d/b/a Nello's, for a revocable consent to continue to maintain and operate a small unenclosed sidewalk café located at 696 Madison Avenue, Community District 8, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on December 5, 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.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, December 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. 989

Report of the Committee on Land Use in favor of approving Application no. C 130040 MMK submitted by Long Island University pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 et seq. of the New York City Administrative Code for an amendment to the City map involving the narrowing by elimination, discontinuance and closing of Willoughby Street between Fleet Place and Ashland Place; the narrowing by elimination, discontinuance and closing of Ashland Place between Willoughby Street and DeKalb Avenue; the elimination of Public Place between Willoughby Street, Fleet Street, and Fleet Place; the delineation of public access easements in Willoughby Street and Ashland Place; the adjustment of grades necessitated thereby; including authorization for any acquisition or disposition of real property related thereto, in the Borough of Brooklyn, Community District 2, Council District 34.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on November 26, 2013 (Minutes, page 4926), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 2

C 130040 MMK

City Planning Commission decision approving an application submitted by Long Island University (LIU), pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 et seq. of the New York City Administrative Code, for an amendment to the City map involving:

- the narrowing by elimination, discontinuance and closing of Willoughby Street between Fleet Place and Ashland Place;
- the narrowing by elimination, discontinuance and closing of Ashland Place between Willoughby Street and DeKalb Avenue;
- the elimination of Public Place between Willoughby Street, Fleet Street, and Fleet Place;
- the delineation of public access easements in Willoughby Street and Ashland Place;
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in accordance with Map Nos. X-2737 and X-2738 dated June 26, 2013 and signed by the Borough President.

INTENT

This City Map amendment would enable LIU to reconfigure its athletic field to NCAA Division I Standards, and enhance City public space with improved street lighting, public seating areas and additional plantings and street trees.

PUBLIC HEARING

DATE: December 5, 2013

Witnesses in Favor: Four

Witnesses Against: Two

SUBCOMMITTEE RECOMMENDATION

DATE: December 19, 2013

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

In Favor: Levin, Barron, Gonzalez, Dickens, Koo

Against: None **Abstain:** None

COMMITTEE ACTION

DATE: December 19, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Comrie, Rivera, Reyna, Barron, Jackson, Vann, Gonzalez, Palma, Arroyo, Dickens, Garodnick, Lappin, Koo, Lander, Levin, Weprin, Williams, Ignizio
Against: None **Abstain:** None

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

Res. No. 2101

Resolution approving the decision of the City Planning Commission on ULURP No. C 130040 MMK, an amendment to the City Map (L.U. No. 989).

By Council Members Comrie and Levin.

WHEREAS, the City Planning Commission filed with the Council on November 22, 2013 its decision dated November 20, 2013 (the "Decision"), on the application submitted by Long Island University, pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 et seq. of the New York City Administrative Code, for an amendment to the City Map involving:

- the narrowing by elimination, discontinuance and closing of Willoughby Street between Fleet Place and Ashland Place;
- the narrowing by elimination, discontinuance and closing of Ashland Place between Willoughby Street and DeKalb Avenue;
- the elimination of Public Place between Willoughby Street, Fleet Street, and Fleet Place;
- the delineation of public access easements in Willoughby Street and Ashland Place;
- the adjustment of grades necessitated thereby;

including authorization for any acquisition or disposition of real property related thereto, in the Borough of Brooklyn, Community District 2, in accordance with Map Nos. X-2737 and X-2738 dated June 26, 2013 and signed by the Borough President (ULURP No. C 130040 MMK), Community District 2, Borough of Brooklyn (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on December 5, 2013;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application;

WHEREAS, the Council has considered the relevant environmental issues including the conditional negative declaration (CEQR No. 13DCP018K) issued November 20, 2013 (the "Conditional Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Conditional Negative Declaration, subject to the following condition:

The applicant, LIU agrees via the mapping agreement to submit a Remedial Action Plan (RAP) and associated Construction Health and Safety Plan (CHASP) to DEP for review and approval prior to construction, for implementation during construction.

Pursuant to Sections 197-d and 199 of the City Charter and Section 5-430 et seq. of the New York City Administrative Code, and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 130040 MMK, incorporated by reference herein, the Council approves the Decision for an amendment to the City Map as set forth in Map Nos.: X-2737 and X-2738 dated June 26, 2013, including the authorization for any acquisition or disposition of real property related thereto, being more particularly described as follows:

DISCONTINUING AND CLOSING A PORTION OF WILLOUGHBY STREET BETWEEN FLEET STREET AND ASHLAND PLACE

Starting at a Point of Beginning located at the intersection of the former southerly street line of Willoughby Street and the easterly street line of Fleet Street, as those streets were hereinbefore laid out on the City Map;

- 1) Running thence easterly, along said former southerly street line of Willoughby Street, discontinued and closed, 684.30 feet to its intersection with the newly established westerly street line of Ashland Place;
- 2) Running thence northerly, along said newly established westerly street line of Ashland Place, said course forming a deflection angle to the left with the last mentioned course of 99 degrees 04 minutes 06 seconds, 20.25 feet to its intersection with the newly established southerly street line of Willoughby street;
- 3) Running thence westerly, along said newly established southerly street line of Willoughby Street, said course forming a deflection angle to the left with the last mentioned course of 80 degrees 55 minutes 54 seconds, 669.99 feet to the newly established easterly street line of Fleet Street; and
- 4) Running thence southerly, along said newly established easterly street line of Fleet Street, said course forming a deflection angle to the left with the last mentioned course of 60 degrees 55 minutes 22 seconds, 22.88 feet to its intersection with the former southerly street line of Willoughby Street, discontinued and closed, the point or place of beginning.

The area described above consists of 13,542.88 square feet, more or less.

DISCONTINUING AND CLOSING A PORTION OF ASHLAND PLACE BETWEEN WILLOUGHBY STREET AND DEKALB AVENUE

Starting at a Point of Beginning located at the intersection of the northerly street line of DeKalb Avenue and the former westerly street line of Ashland Place, as those streets were hereinbefore laid out on the City Map;

- 1) Running thence easterly, along the newly established northerly street line of DeKalb Avenue, 14.18 feet to its intersection with the newly established westerly street line of Ashland Place;
- 2) Running thence northerly, along said newly established westerly street line of Ashland Place, said course forming a deflection angle to the left with the last mentioned course of 99 degrees 01 minute 34 seconds, 700.16 feet to its intersection with the newly established southerly street line of Willoughby Street;
- 3) Running thence westerly, along said newly established southerly street line of Willoughby Street, said course forming a deflection angle to the left with the last mentioned course of 80 degrees 55 minutes 54 seconds, 14.18 feet to its intersection with the former westerly street line of Ashland Place; and
- 4) Running thence southerly, along said former westerly street line of Ashland Place, discontinued and closed, said course forming a deflection angle to the left with the last mentioned course of 99 degrees 04 minutes 06 seconds, 679.92 feet to its intersection with the northerly street line of DeKalb Avenue, the point or place of beginning.

The area described above consists of 9,518.78 square feet, more or less.

DISCONTINUING AND CLOSING PUBLIC PLACE BETWEEN WILLOUGHBY STREET, FLEET PLACE AND FLEET STREET

Starting at a Point of Beginning located at the intersection of the former southerly street line of Willoughby Street and the former northwesterly street line of Fleet Street, as those streets were hereinbefore laid out on the City Map;

- 1) Running thence westerly, along said former southerly street line of Willoughby Street, discontinued and closed, 15.33 feet to its intersection with the former easterly street line of Fleet Place;
- 2) Running thence southerly, along said former easterly street line of Fleet Place, discontinued and closed, said course forming a deflection angle to the left with the last mentioned course of 90 degrees 40 minutes 55 seconds, 27.00 feet to its intersection with the former northwesterly street line of Fleet Street; and
- 3) Running thence northeasterly, along said former northwesterly street line of Fleet Street, discontinued and closed, said course forming a deflection angle to the left with the last mentioned course of 150 degrees 14 minutes 27

seconds, 30.89 feet to its intersection with the former southerly street line of Willoughby Street, the point or place of beginning.

The area described above consists of 207.00 square feet, more or less.

All such approvals being subject to the following conditions:

- a. The subject amendment to the City Map shall take effect on the day following the day on which certified counterparts of Map Nos. X-2737 and X-2738 are filed with the appropriate agencies in accordance with Section 198 subsection c of the New York City Charter and Section 5-435 of the New York City Administrative Code;
- b. The subject street to be discontinued and closed shall be discontinued and closed on the day following the day on which such maps adopted by this resolution shall be filed in the offices specified by law;
- c. The subject amendment to the City Map shall not be filed with the appropriate agencies in accordance with condition "a" above until the applicant shall have executed a mapping agreement protecting the city's interest, approved as to form and sufficiency by the Corporation Counsel and accepted by the City Planning Commission (the "Mapping Agreement"). If such agreement is not accepted by the City Planning Commission within two years of the date of this resolution, the approved amendment to the City Map may be returned to the City Planning Commission for rescission; and
- d. The Mapping Agreement shall contain provisions governing, in connection with development of the former street, the testing for and remediation of hazardous materials in accordance with DEP requirements, as such environmental requirements are specified in the Conditional Negative Declaration dated November 20, 2013. The applicant or its successor shall submit proof of recording of the restrictive declaration to counsel for the Department of City Planning and DEP.

LEROY G. COMRIE, Jr., Chairperson; JOEL RIVERA, DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, SARA M. GONZALEZ, ANNABEL PALMA, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, RUBEN WILLS, VINCENT M. IGNIZIO; Committee on Land Use, December 19, 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. 994

Report of the Committee on Land Use in favor of approving Application No. C 140063 ZSK submitted by Coney Island Holdings LLC and the New York City Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 131-60 of the Zoning Resolution to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years, on property located at 3052-3078 West 21st Street (Block 7071, Lots 27, 28, 30, 32, 34, 76, 79, 81, 130, 226, 231, and p/o Lot 142, in the Borough of Brooklyn, Community District 13, Council District 47. 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.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 10, 2013 (Minutes, page 5250), respectfully

REPORTS:

(For text of updated report, please see the Report of the Committee on Land Use for LU No. 994 printed in the General Order Calendar section of these Minutes)

Accordingly, this Committee recommends its adoption.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 18, 2013.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 995

Report of the Committee on Land Use in favor of approving Application No. N 140064 ZRK submitted by Coney Island Holdings LLC and New York City Economic Development Corporation pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Section 113-00 (Special Coney Island District), 131-60 (Special Permit for Auditoriums), Appendix A (Coney Island District Plan) relating to the development of auditorium use, in the Borough of Brooklyn, Community District 13, Council District 47.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 10, 2013 (Minutes, page 5251), respectfully

REPORTS:

(For text of updated report, please see the Report of the Committee on Land Use for LU No. 995 printed in the General Order Calendar section of these Minutes)

Accordingly, this Committee recommends its adoption.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 18, 2013.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 996

Report of the Committee on Land Use in favor of approving Application No. C 140065 ZMK submitted by Coney Island Holdings, LLC and the New York City Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) bounded by a line perpendicular to the easterly street line of West 23rd Street distant 245 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West 23rd Street and northerly boundary line of Riegelmann Boardwalk, a line 110 feet easterly of West 23rd Street, a line 150 feet northerly of former Highland View Avenue and its easterly prolongation, the easterly street line of former West 22nd Street, the northerly boundary line of Riegelmann Boardwalk, and West 23rd Street, in the Borough of Brooklyn, Community District 13, Council District 47.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 10, 2013 (Minutes, page 5251), respectfully

REPORTS:

(For text of updated report, please see the Report of the Committee on Land Use for LU No. 996 printed in the General Order Calendar section of these Minutes)

Accordingly, this Committee recommends its adoption.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 18, 2013.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 997

Report of the Committee on Land Use in favor of approving Application No. C 140066 PPK submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for disposition, by lease agreement, to the New York City Land Development Corporation (NYCLDC) of city-owned property located on Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 142 and 226, restricted to the conditions pursuant to NYC Zoning Resolution (ZR) Section 131-60 (Special Permit for Auditoriums), in the Borough of Brooklyn, Community District 13, Council District 47.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 10, 2013 (Minutes, page 5252), respectfully

REPORTS:

(For text of updated report, please see the Report of the Committee on Land Use for LU No. 997 printed in the General Order Calendar section of these Minutes)

Accordingly, this Committee recommends its adoption.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 18, 2013.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 998

Report of the Committee on Land Use in favor of approving Application No. C 140067 PPK submitted by the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property generally bounded by West 21st Street, West 22nd Street and the Riegelmann Boardwalk (Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 226, and 231), in the Borough of Brooklyn, Community District 13, Council District 47.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 10, 2013 (Minutes, page 5252), respectfully

REPORTS:

(For text of updated report, please see the Report of the Committee on Land Use for LU No. 998 printed in the General Order Calendar section of these Minutes)

Accordingly, this Committee recommends its adoption.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 18, 2013.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 999

Report of the Committee on Land Use in favor of approving Application No. M 090107(B) MMK submitted by the New York City Economic Development for a modification of the resolution adopted by the City Planning Commission on June 17, 2009 (Calendar No. 14) approving an application (C 090107 MMK) for an amendment to the City Map involving, inter alia, the elimination of streets within an area bounded by West 22nd Street,

West 23rd Street, and Public Beach in accordance with Map Nos. X-2711 dated January 14, 2009, revised June 17, 2009 and August 16, 2013 and X-2739 dated August 16, 2013 and signed by the Borough President, in the Borough of Brooklyn, Community District 13, Council District 47.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 10, 2013 (Minutes, page 5252), respectfully

REPORTS:

(For text of updated report, please see the Report of the Committee on Land Use for LU No. 999 printed in the General Order Calendar section of these Minutes)

Accordingly, this Committee recommends its adoption.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 18, 2013.

Approved with Modifications and Referred to the City Planning Commission pursuant to Rule 11.70(b) of the Rules of the Council and Section 197-(d) of the New York City Charter.

Report for L.U. No. 1000

Report of the Committee on Land Use in favor of approving Application No. 20145224 HAM submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of a new exemption from real property taxation, the termination of the existing tax exemption and voluntary dissolution of the current owner for the property located on Block 247, Lot 1, in the Borough of the Manhattan, Community Board 3, Council District 1. This matter is subject to Council review and action at the request of HPD and pursuant to Sections 123(4), 125 and 577 of the Private Housing Finance Law.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 10, 2013 (Minutes, page 5253), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 3

20145224 HAM

Application submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of a new exemption from real property taxation, the termination of the existing tax exemption and voluntary dissolution of the current owner for the property located on Block 247, Lot 1, in the Borough of the Manhattan, Community Board 3, Council District 1. This matter is subject to Council review and action at the request of HPD and pursuant to Sections 123(4), 125 and 577 of the Private Housing Finance Law.

INTENT

To approve a partial tax exemption pursuant to Section 577 of the Private Housing Finance Law for two multiple-dwellings, known as Lands End II/aka Cherry Street, which provide rental housing for low-income families.

PUBLIC HEARING

DATE: December 16, 2013

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

SUBCOMMITTEE RECOMMENDATION

DATE: December 16, 2013

The Subcommittee recommends that the Land Use Committee approve the requests made by HPD.

In Favor: Levin, Dickens, Koo
Against: None **Abstain:** None

COMMITTEE ACTION

DATE: December 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Rivera, Reyna, Barron, Jackson, Vann, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Levin, Weprin, Williams, Ignizio

Against: None **Abstain:** None

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

Res. No. 2102

Resolution to approve a real property partial tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL), terminate a prior exemption under PHFL Section 125 and consent to the voluntary dissolution of the prior owner under PHFL 123(4) for the Exemption Area located on Block 247, Lot 1, in Community District 3, Borough of Manhattan (L.U. No. 1000; 20145224 HAM).

By Council Members Comrie and Levin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on December 2, 2013 its requests dated November 27, 2013 (the "Project") that the Council take the following actions regarding the real property located on Block 247, Lot 1, Community District 3, Borough of Manhattan (the "Exemption Area"):

Approve a partial exemption of the Exemption Area from real property taxes pursuant Private Housing Finance Law (PHFL) Section 577 (the "Tax Exemption");

Terminate, pursuant to PHFL Section 125, a prior exemption for the Exemption Area; and

Consent to, pursuant to PHFL Section 123(4), the voluntary dissolution of the current owner;

WHEREAS, upon due notice, the Council held a public hearing on the Project on December 16, 2013; and

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

RESOLVED:

The Council approves the tax exemption of the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

- a. For the purposes hereof, the following terms shall have the following meanings:
- (1) "Company" shall mean 265-275 Cherry St. (NY) Owner LP.
 - (2) "Current Owner" shall mean Two Bridges Associates Limited Partnership.
 - (3) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, or (ii) the date that HPD and the New Owner enter into the HPD Regulatory Agreement.
 - (4) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, known as Block 247, Lot 1 on the Tax Map of the City of New York.
 - (1) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the HPD Regulatory Agreement, (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, or (iv) 120 days from the date of the expiration or termination of the Section 8 Housing Assistance Payments Contract or contracts under a similar or successor program, unless the New Owner or, subject to HPD approval, another housing development fund company organized pursuant to Article XI of the PHFL, has entered into a new regulatory agreement with HPD regarding rental subsidy for tenants living in the Exemption Area.

- (2) "HDFC" shall mean HP Cherry St. Housing Development Fund Company, Inc. or any future owner of the Exemption Area that is a housing development fund company.
- (3) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
- (4) "HPD Regulatory Agreement" shall mean the regulatory agreement between HPD and the New Owner establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.
- (5) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
- (6) "New Owner" shall mean, collectively, the HDFC and the Company.
- (7) "PHFL" shall mean the Private Housing Finance Law.
- (8) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on April 21, 1977 (Cal. No. 5).
- (9) "Shelter Rent" shall mean the total rents received from the commercial and residential occupants of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements and rental assistance), less the cost of providing to such occupants electricity, gas, heat and other utilities.
- (10) "Shelter Rent Tax" shall mean an amount equal to five percent (5%) of Shelter Rent.

b. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.

c. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the New Owner shall make real property tax payments in the sum of the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the New Owner shall not at any time exceed the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by any existing or future local, state, or federal law, rule or regulation.

d. Notwithstanding any provision hereof to the contrary:

- (1) The New Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the HPD Regulatory Agreement, (iii) 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 (iv) 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 New Owner 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 New Exemption shall prospectively terminate.

- (2) The New 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.
- (3) Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

e. In consideration of the New Exemption, the owner of the Exemption Area shall, for so long as the New Exemption shall remain in effect, waive the benefits of any additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state or federal law, rule or regulation.

- 2. The Council approves, pursuant to Section 125 of the PHFL, the termination of the Prior Exemption, which termination shall become effective one day preceding the conveyance of the Exemption Area from the Current Owner to the New Owner.
- 3. The Council consents, pursuant to Section 123(4) of the PHFL, to the voluntary dissolution of the Current Owner.
- 4. If (i) the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur within one day following the termination of the Prior Exemption, or (ii) the conveyance of the Exemption Area from the Current Owner to the New Owner does not occur on the same day as the voluntary dissolution of the Current Owner, then all of the approvals and consents set forth above shall be null and void and both the obligations of the Current Owner to remain an Article V redevelopment company and the Prior Exemption shall be reinstated as though they had never been terminated or interrupted.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, December 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. 1001

Report of the Committee on Land Use in favor of approving Application No. 20145225 HAM submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of a tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL) for the property located on Block 1749, Lots 60 and 66; Block 1750, Lots 65 and 104; Block 1751, Lots 14, 57, 63 and 156; Block 1752, Lots 10 and 70; Block 1755, Lot 22; and Block 1756, Lot 8, in the Borough of the Manhattan, Community Board 11, Council District 9. This matter is subject to Council review and action at the request of HPD and pursuant to Section 577 of the PHFL.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 10, 2013 (Minutes, page 5253), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 11

20145225 HAM

Application submitted by the New York City Department of Housing Preservation and Development (HPD) for approval of a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL) for the property located on Block 1749, Lots 60 and 66; Block 1750, Lots 65 and 104; Block 1751, Lots 14, 57, 63 and 156; Block 1752, Lots 10 and 70; Block 1755, Lot 22; and Block 1756, Lot 8, in the Borough of the Manhattan, Community Board 11, Council District 9. This matter is subject to Council review and action at the request of HPD and pursuant to Section 577 of the PHFL.

INTENT

To approve a tax exemption pursuant to Section 577 of the Private Housing Finance Law for twelve multiple-dwellings, known as 127th Street Cluster, which provide rental housing for low-income families.

PUBLIC HEARING

DATE: December 16, 2013

Witnesses in Favor: Two

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: December 16, 2013

The Subcommittee recommends that the Land Use Committee approve the requests made by HPD.

In Favor: Levin, Dickens, Koo

Against: None **Abstain:** None

COMMITTEE ACTION

DATE: December 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Rivera, Reyna, Barron, Jackson, Vann, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Levin, Weprin, Williams, Ignizio

Against: None **Abstain:** None

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

Res. No. 2103

Resolution to approve a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL), for the Exemption Area located on Block 1749, Lots 60 and 66; Block 1750, Lots 65 and 104; Block 1751, Lots 14, 57, 63 and 156; Block 1752, Lots 10 and 70; Block 1755, Lot 22; Block 1756, Lot 8, in Community District 11, Borough of Manhattan (L.U. No. 1001; 20145225 HAM).

By Council Members Comrie and Levin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on November 25, 2013 its request dated October 28, 2013 that the Council take the following actions regarding a tax exemption for real property located on Block 1749, Lots 60 and 66; Block 1750, Lots 65 and 104; Block 1751, Lots 14, 57, 63 and 156; Block 1752, Lots 10 and 70; Block 1755, Lot 22; Block 1756, Lot 8, Community District 11, Borough of Manhattan (the "Exemption Area"):

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

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption on December 16, 2013; and

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

RESOLVED:

The Council approves the Tax Exemption for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

1. For the purposes hereof, the following terms shall have the following meanings:

- (a) "Company" shall mean Finite Homes LLC.
- (b) "Effective Date" shall mean July 1, 2017.
- (c) "Exemption" shall mean the exemption from real property taxation provided hereunder.
- (d) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1749, Lots 60 and 66; Block 1750, Lots 65 and 104; Block 1751, Lots 14, 57, 63 and 156; Block 1752, Lots 10 and 70; Block 1755, Lot 22; and Block 1756, Lot 8 on the Tax Map of the City of New York.
- (e) "Expiration Date" shall mean the earlier to occur of (i) June 7, 2046, or (ii) 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.
- (f) "HDFC" shall mean Finite Homes Housing Development Fund Company, Inc. or any future owner of the Exemption Area that is a housing development fund company.
- (g) "HPD" shall mean the City of New York Department of Housing Preservation and Development.
- (h) "J-51 Benefits" shall mean any tax benefits pursuant to Section 489 of the Real Property Tax Law which are in effect on the Effective Date.
- (i) "Owner" shall mean, collectively, the HDFC and the Company.
- (j) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the Owner dated October 9, 2013 establishing certain controls on the Exemption Area during the term of the Exemption.

2. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.

3. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the Owner shall make real property tax payments as follows:

- (a) For tax year 2017/2018, the real property tax payment shall be \$119,947; and
- (b) Commencing in tax year 2018/2019 and continuing until the Expiration Date, the annual real property tax payment shall be equal to 1.03 times the real property tax payment due in the prior tax year.

Such payments shall not be reduced or offset by reason of any J-51 Benefits. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the amount of real property 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.

4. Notwithstanding any provision hereof to the contrary:

- (a) The Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) 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 (iv) 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 Owner 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 with respect to the Exemption Area prior to the Effective Date.

5. In consideration of the Exemption, the owner of the Exemption Area, for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation, other than the J-51 Benefits, which may be authorized under any existing or future local, state or federal law, rule or regulation.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, December 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. 1002

Report of the Committee on Land Use in favor of approving Application no. 20145155 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Cherry Lane, Inc. d/b/a The Randolph at Broome, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 349 Broome Street, in the Borough of Manhattan, Community District 2, Council District 1. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(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 December 10, 2013 (Minutes, page 5254), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 2

20145155 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Cherry Lane, Inc., d/b/a The Randolph at Broome, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 349 Broome Street.

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: December 17, 2013

Witnesses in Favor: One

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: December 17, 2013

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

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

COMMITTEE ACTION

DATE: December 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Rivera, Reyna, Barron, Jackson, Vann, Arroyo, Dickens, Garodnick, Lappin, Mendez, Koo, Levin, Weprin, Williams, Ignizio
Against: None **Abstain:** None

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

Res. No. 2104

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 349 Broome Street, Borough of Manhattan (20145155 TCM; L.U. No. 1002).

By Council Members Comrie and Weprin.

WHEREAS, the Department of Consumer Affairs filed with the Council on November 25, 2013 its approval dated November 21, 2013 of the petition of Cherry Lane, Inc., d/b/a The Randolph at Broome, for a revocable consent to continue to maintain and operate an unenclosed sidewalk café located at 349 Broome Street, 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(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on December 17, 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.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, CHARLES BARRON, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, VINCENT M. IGNIZIO; Committee on Land Use, December 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).

Reports of the Committee on Parks and Recreation

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

Report for Int. No. 1216

Report of the Committee on Parks and Recreation in favor of approving and adopting, a Local Law in relation to the naming of seven thoroughfares and public places, Hermena Rowe Street, Borough of Manhattan, Captain Dennis Morales Way, Borough of Brooklyn, Subhi Widdi Way, Borough of Brooklyn, Alexey Murzhenko Plaza, Borough of Manhattan, Pat Jones Way, Borough of Manhattan, Ariel Russo Place (4 Years Old), Borough of Manhattan and John E. Nikas Way, Borough of Brooklyn.

The Committee on Parks and Recreation, to which the annexed proposed local law was referred on December 19, 2013, respectfully

REPORTS:Comment:

On December 18, 2013, the Committee on Parks and Recreation will hold a hearing to consider a bill co-naming seven (7) thoroughfares and public places. The Council acts upon the authority granted in subdivision (b) of section 25-102.1 of the New York City Administrative Code which states:

Unless the local law specifically provides otherwise, any local law changing the name of a street, park, playground or portion thereof, or any facility or structure, located and laid out on the city map, that bears a name indicated on the city map shall not be construed to require a change in such name as it is indicated on the city map; provided, however, that in the case of a local law changing the name of a street or portion thereof, the name added by such local law shall be posted on a sign placed adjacent to or near a sign bearing the name of such street or portion thereof indicated on the city map.

The following street name changes are not to be construed as a change in the City Map, but as additional names to be posted near or adjacent to the street or location indicated on the City Map.

Section 1. Hermena Rowe Street

Introduced by Council Member Dickens

Hermena Rowe (1929 – 2005), was a resident of Harlem for 62 years. She was born December 29, 1929 in Bamberg, South Carolina and moved to New York City at the age of 14 and began attending public schools, where she graduated from Washington Irving High School. In 1946, she married the late Clarence Rowe and had a family of nine children. As a concerned parent, Ms. Rowe became engaged as a community activist in order to bring about much needed improvements in conditions in her children's schools. In the late 1950's and early 1960's Ms. Rowe served as Secretary of the PS 144 Parent-Teacher Association (PTA) and became an active member of the Wadleigh Junior High School PTA where she was integral in planning and implementing innovative programs, as well as in selecting qualified educators and administrators. Through her work as a community activist, Ms. Rowe collaborated with such leaders as Ennis Francis, Bernice Bolar, Bea Ellis, Vivian Waller, Noreen Clark and Percy Sutton and helped to bring about positive changes to the social and political climate of the community. Ms. Rowe also worked for a time at the Center for Early Childhood Program and with the East Harlem Scholarship Program, where she was instrumental in awarding scholarships to many deserving minority college students. Ms. Rowe also served as a member of several Harlem Community organizations, including Harlem Youth Opportunities Unlimited (HARYOU-ACT), Neighborhood Board #4, Planning Board #10, The Board of Family Planning and Addicts Rehabilitation Center (ARC). Ms. Rowe was also a devoted and active member of Christian Parish for Spiritual Renewal since 1955.

Section 2. Captain Dennis Morales Way

Introduced by Council Member Gonzalez

Captain Dennis Morales joined the New York City Police Department in January 1992, where he began his career on patrol in the 7th Precinct. He was promoted to Sergeant in 1997, Lieutenant in August 2000 and Captain in March 2004. His career spanned 18 years during which time, he graduated from St. Joseph's College, made 93 arrests, was recognized six times for Excellent Police Duty and two times for Meritorious Police Duty. As part of the Emergency Service Unit, he participated in rescue and recovery efforts following the 9/11 terrorist attacks. He retired on July 30, 2010 and died on July 2012 at the age of 50 from illnesses contracted from rescue and recovery work performed at the World Trade Center site.

Section 3. Subhi Widdi Way

Introduced by Council Member Gonzalez

Subhi Widdi was born in Jerusalem on January 5, 1933. Though he dropped out of school due to poverty, he began working in construction at age 16. Through his construction work, he learned the skills necessary to becoming an architect. He then started his own company and built many buildings in Jerusalem and nearby towns. He immigrated to the United States in 1960 where he went into the food business, eventually establishing Widdi Catering Hall in Sunset Park. He provided use of the hall, free of charge, to non-profit organizations such as local churches, synagogues, mosques and schools and oftentimes forgave the debts of those who could not afford to pay the entire cost for events at the Hall. Subhi Widdi earned a reputation in his community for being extremely charitable and helpful to anyone who was in need. He helped fund the construction of the Saint Nicholas Home for the Aged, where he sat as a board member and also founded the New York Chapter of The Red Crescent and was one of the founders of the Arab American Association of New York. He received numerous accolades throughout his life, including the "Merchant of the Year" award from White Rose Food, and being honored numerous times by the 77th Precinct Community Council for his contributions to the community and being honored by the Tri State Arab American Association of Architects and Engineers in 2010.

Section 4. Alexey Murzhenko Plaza

Introduced by Council Member Jackson

Alexey Murzhenko was a human rights defender who became involved in the struggle for human rights and democratic change in the former Soviet Union. At age 20, he was sentenced to six years in jail for founding and leading a student group that advocated for civil liberties. He was also one of two Christians in a 16 member refusenik dissident group who were activists for the right to emigrate from the Soviet Union. In 1970, he and other members of this group were incarcerated when they attempted to commandeer a plane with the hope of flying to Sweden and subsequently emigrating to Israel to escape Soviet persecution to call attention to the injustices suffered by Soviet Jews and others who were denied the freedom to emigrate from the Soviet Union. He was released in 1984, however after his release, police charged him with parole violations and again imprisoned him. He helped establish the Day of Political Prisoners which was marked on October 30th throughout the Soviet Gulag by hunger strikes against violations of the human rights of political prisoners. In 1991, the Russian parliament officially recognized it as a Day of Remembrance of Victims of Political Repression. On September 30, 1982, the United States House of Representatives unanimously passed a resolution calling for the release of Alexey Murzhenko and Yuri Fiodorov (another member of the refusenik group) from prison. In 1988, he left the Soviet Union and settled in New York City where his home became a center for the Russian speaking community and a gathering place for veterans of the human rights struggle in former Soviet Union.

Section 5. Pat Jones Way

Introduced by Council Member Jackson

Pat Jones joined Community Board 9 in 2001 and served as chair for two terms from 2008 to 2010. She co-authored the Community Benefits Agreement, a legal document outlining \$76 million in funding and benefits for the neighborhood from Columbia University, and chaired the board committee whose work led to the plan. She advocated for an alternative to the University's plan, which included more affordable housing, landmark preservation, and increased accessibility to University facilities. She also served on the board of the West Harlem Development Corporation. After serving as CB9 chair, she served as co-chair of the board's land use and zoning committee. Throughout her tenure as board and committee chair, she had an instrumental role in several local rezoning efforts, including the Manhattanville and West Harlem rezonings.

Section 6. Ariel Russo Place (4 Years Old)

Introduced by Council Member Mark-Viverito

Ariel Russo was 4 years-old when she was killed on a sidewalk in June 2013 when an unlicensed teen driver in an SUV jumped the curb while fleeing from the police and struck her. Records indicated that there was a four-minute delay between the time EMS received the 9-1-1 call and the time an ambulance was dispatched. In response to her death, the City Council passed the Ariel Russo Emergency 9-1-1 Response Time Reporting Act, which requires the Fire Department to count and report complete response times starting from the moment a 911 call is taken, rather than when a vehicle is dispatched in order to help best determine how to best deploy limited resources and facilitate swift emergency response.

Section 7. John E. Nikas Way

Introduced by Council Member Nelson

John Nikas worked for New York State for a number of years. He was very involved with the Three Hierarchs Greek Orthodox Church where he helped set up a youth program under the auspices of HANAC, a Hellenic Greek organization which oversaw its operations. He helped found the 61st Precinct Youth Council, which helped to bring troubled youth into programs working with the NYPD. The Youth Council flourished and eventually became self-sustaining operation under the name Youth Dares which helped young kids. He later represented the 61st Precincts new program called The Citizens' Police Academy. He was a graduate of the programs first class. He was a member of the Board of Directors of Community Hospital no known as New York Community Hospital. He was also the chairperson of Planning Board No. 15 for many years.

Accordingly, this Committee recommends its adoption.

(For text of the preconsidered bill, please see the Introduction and Reading of Bills section printed in these Minutes)

MELISSA MARK-VIVERITO, Chairperson; JAMES VACCA, ELIZABETH S. CROWLEY, DANIEL DROMM, JAMES G. VAN BRAMER; Committee on Parks and Recreation, December 18, 2013.

Re-referred to the Committee on Parks and Recreation.

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

Report for Int. No. 1217

Report of the Committee on Parks and Recreation in favor of approving and adopting a Local Law in relation to the naming of six thoroughfares and public places, Hermena Rowe Street, Borough of Manhattan, Captain Dennis Morales Way, Borough of Brooklyn, Subhi Widdi Way, Borough of Brooklyn, Pat Jones Way, Borough of Manhattan, Ariel Russo Place (4 Years Old), Borough of Manhattan and John E. Nikas Way, Borough of Brooklyn.

The Committee on Parks and Recreation, to which the annexed proposed local law was referred on December 19, 2013, respectfully

REPORTS:

Comment:

On December 19, 2013, the Committee on Parks and Recreation held a hearing to consider a bill co-naming six (6) thoroughfares and public places. At this hearing the Committee voted 6 in favor, 0 opposed and 0 abstentions on the bill. The Council acts upon the authority granted in subdivision (b) of section 25-102.1 of the New York City Administrative Code which states:

Unless the local law specifically provides otherwise, any local law changing the name of a street, park, playground or portion thereof, or any facility or structure, located and laid out on the city map, that bears a name indicated on the city map shall not be construed to require a change in such name as it is indicated on the city map; provided, however, that in the case of a local law changing the name of a street or portion thereof, the name added by such local law shall be posted on a sign placed adjacent to or near a sign bearing the name of such street or portion thereof indicated on the city map.

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provided use of the hall, free of charge, to non-profit organizations such as local churches, synagogues, mosques and schools and oftentimes forgave the debts of those who could not afford to pay the entire cost for events at the Hall. Subhi Widdi earned a reputation in his community for being extremely charitable and helpful to anyone who was in need. He helped fund the construction of the Saint Nicholas Home for the Aged, where he sat as a board member and also founded the New York Chapter of The Red Crescent and was one of the founders of the Arab American Association of New York. He received numerous accolades throughout his life, including the “Merchant of the Year” award from White Rose Food, and being honored numerous times by the 77th Precinct Community Council for his contributions to the community and being honored by the Tri State Arab American Association of Architects and Engineers in 2010.

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Section 5. Ariel Russo Place (4 Years Old)

Introduced by Council Member Mark-Viverito

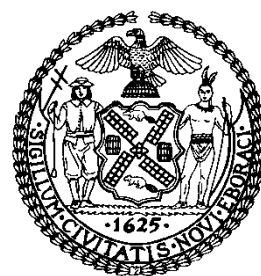
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(The following is the text of the Fiscal Impact Statement for Int. No. 1217:)



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

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

FISCAL IMPACT STATEMENT

**PRE-CONSIDERED INTRO. NO:
COMMITTEE:
Parks**

TITLE: A Local Law in relation to the naming of six thoroughfares and public places. **SPONSOR(S):** By Council Members Dickens, Gonzalez, Jackson, Mark-Viverito and Nelson

In relation to the naming of six thoroughfares and public places, Hermena Rowe Street, Borough of Manhattan, Captain Dennis Morales Way, Borough of Brooklyn, Subhi Widdi Way, Borough of Brooklyn, Pat Jones Way, Borough of Manhattan, Ariel Russo Place (4 Years Old), Borough of Manhattan and John E. Nikas Way, Borough of Brooklyn.

SUMMARY OF LEGISLATION: The proposed law would add, through the posting of additional signs, the following names:

New Name	Present Name	Limits
Hermena Rowe Street	None	At the southwest corner of Adam Clayton Powell, Jr. Boulevard and 122 nd Street
Captain Dennis Morales Way	None	At the intersection of 4 th Avenue and 36 th Street
Subhi Widdi Way	None	At the intersection of 6 th Avenue and 56 th Street
Pat Jones Way	144 th Street	Between Hamilton Terrace and Convent Avenue
Ariel Russo Place (4 Years Old)	West 97 th Street	Between Amsterdam Avenue and Broadway
John E. Nikas Way	None	at the intersection of East 12 th Street and Gravesand Neck Road

EFFECTIVE DATE: This local law would take effect immediately upon 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 FY14
Revenues	\$0	\$0	\$0
Expenditures	\$1,725	\$0	\$1,725
Net	\$1,725	\$0	\$1,725

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

IMPACT ON EXPENDITURES: This legislation would require approximately seven signs at \$37.50 each and an additional \$1,500 (\$250 per sign) for the installation of these signs. The total cost of enacting this legislation would be approximately \$1,725.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Chima Obichere, Unit Head

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

LEGISLATIVE HISTORY: This legislation will be considered by the Committee as a Pre-considered Intro on December 19, 2013 and upon a successful vote, the bill would be submitted to the full Council for a vote.

Fiscal Impact Schedule

New Name	Number of Signs	Cost	Installation (street signs only)	Total Cost
Hermena Rowe Street	1	37.5	250	287.50
Captain Dennis Morales Way	1	37.5	250	287.50
Subhi Widdi Way	1	37.5	250	287.50
Pat Jones Way	1	37.5	250	287.50
Ariel Russo Place (4 Years Old)	1	37.5	250	287.50
John E. Nikas Way	1	37.5	250	287.50
	7	\$225	\$1,500	\$1,725

Accordingly, this Committee recommends its adoption.

(For text of the preconsidered bill, please see the Introduction and Reading of Bills section printed in these Minutes)

MELISSA MARK-VIVERITO, Chairperson; VINCENT J. GENTILE, JAMES VACCA, ELIZABETH S. CROWLEY, JULISSA FERRERAS, DANIEL DROMM, JAMES G. VAN BRAMER; Committee on Parks and Recreation, December 19, 2013.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1217:)

**THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the naming of six thoroughfares and public places, Hermena Rowe Street, Borough of Manhattan, Captain Dennis Morales Way, Borough of Brooklyn, Subhi Widdi Way, Borough of Brooklyn, Pat Jones Way, Borough of Manhattan, Ariel Russo Place (4 Years Old), Borough of Manhattan and John E. Nikas Way, Borough of Brooklyn.

Given under my hand and seal this 19th day of December, 2013 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

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 Public Safety

Report for Int. No. 859-A

Report of the Committee on Public Safety in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to submit to the council reports of crime in all parks and playgrounds within the City that are greater than one acre in size.

The Committee on Public Safety, to which the annexed amended proposed local law was referred on May 15, 2012 (Minutes, page 1584), respectfully

REPORTS:

I. INTRODUCTION

On December 16, 2013, the Committee on Public Safety, chaired by Council Member Peter F. Vallone, Jr. will hold a hearing to vote on Proposed Int. No. 859-A, which would amend the administrative code of the city of New York, in relation to requiring the police department to submit to the council reports of crime in all parks and playgrounds within the City that are greater than one acre in size. On November 22, 2013, the Committee on Public Safety held a hearing to consider Introduction No. 859. At that time the Committee heard testimony from union representatives and advocacy groups in support of the legislation.

II. BACKGROUND

The New York City Police Department’s (“NYPD”) computerized crime-tracking system, COMPSTAT, is used to analyze crime patterns by precinct. This by itself, however, is an imperfect method for tracking crimes in parks due to the fact that many of the city-run parks fall within the geographic regions encompassed by more than one NYPD precinct – under this system, the only park-specific data available is for Central Park, which has its own police precinct.¹ To address this issue, the Committee on Public Safety held numerous hearings in 2005 to discuss proposed legislation that sought to mandate that the NYPD issue quarterly reports to the Council that include the total number of major felony crime complaints for the 20 largest parks, as determined by acreage, under the jurisdiction of the Department of Parks and Recreation. The Council passed the proposed legislation and it was signed into law by the Mayor on December 29, 2005, becoming Local Law 114 of 2005. The Council explained in its legislative intent that city parks “provide an oasis for residents and visitors, and it is vitally important that just as precinct crime information is sent to the council on a quarterly basis, data about the safety of parks should also be provided to the council.”²

Local Law 114 went into effect on February 1, 2006, and at that time the 20 parks initially covered were as follows:

- | | | | |
|--------------------|---------------------|--------------------------|-----------------------|
| 1. Alley Pond Park | 6. Ferry Point | 11. Great Kills Park | 16. Pelham Bay |
| 2. Bronx Park | 7. Flushing Meadows | 12. Inwood Hill | 17. Prospect Park |
| 3. Cunningham Park | 8. Forest Park | 13. La Tourette Park | 18. Randall's Island |
| 4. Dyker Beach | 9. Fort Washington | 14. Marine Park | 19. Riverside Park |
| 5. FDR/Midland | 10. Fresh Kills | 15. Paerdegat Basin Park | 20. Van Cortland Park |

Local Law 114 also required the NYPD to submit to the Council the total number of major felony crime complaints for all parks, one acre or greater in size, under the jurisdiction of the Department of Parks and Recreation pursuant to the following timetable:

1. By one year after enactment, the one hundred largest parks, as determined by acreage;
2. By two years after enactment, the two hundred largest parks, as determined by acreage; and
3. By three years after enactment, all parks one acre or greater in size.³

At the hearings held in 2005, the NYPD informed the Committee on Public Safety that there are some resource and technology issues impeding its ability to report this additional park-specific data. Accordingly, to avoid imposing undue hardship on the NYPD, Local Law 114 specifically provided that the NYPD would report additional park data “subject to the availability of resources and the introduction of the necessary technology.”⁴ Therefore, it was the intention of Local Law 114 that the NYPD report major felony crime complaint data for all City parks one acre or greater in size – a total of 870 parks – by the year 2008, if the resources and technology allowed. Unfortunately, between 2006 and 2009 the NYPD alleged that it did not have the requisite resources to report data on all parks one acre or greater in size. As a result, the City

² See Local Law 114 of 2005.
³ See Administrative Code of the City of New York §14-150(a)(4).
⁴ *Id.*

Council was not provided with the data for all 870 parks by 2008. Instead, in 2008, the NYPD expanded its reporting of crime data from 20 parks to 30 of the largest city-run parks, and included the major felonies happening in

Central Park’s 22nd Precinct. Specifically, in addition to the initial 20 parks listed above, the NYPD began reporting on the following 10 parks in 2008:

- | | |
|---------------------------|-------------------------------------|
| 1. Blue Heron Park | 6. Kissena Park |
| 2. Canarsie Park | 7. Rockaway Community/Edgemere Park |
| 3. Crotona Park | 8. Soundview Park |
| 4. Highbridge Park | 9. Wards Island Park |
| 5. Joseph T. McGuire Park | 10. Wolfe's Pond Park ⁵ |

Since 2008, the NYPD has not increased the number of parks on which it reports. On April 12, 2011, Council Member Peter Vallone, Jr., Chair of the Committee on Public Safety, sent a letter to Police Commissioner Raymond Kelly requesting a detailed explanation as to why the NYPD has failed to provide the City Council with crime reports data for more than 31 city parks.⁶ In a response letter dated May 30, 2011, Police Commissioner Kelly stated that the NYPD’s “current technological configuration still does not permit the type of reporting” required by Local Law 114. Police Commissioner Kelly also explained that he “instructed his staff to begin an in-depth cost analysis as to the feasibility of re-configuring [NYPD’s] existing infrastructure to accommodate [Local Law 114].”⁷

Thereafter, on January 30, 2012 the Committee on Public Safety and the Committee on Parks and Recreation held a joint oversight hearing entitled “A walk in the park...or is it? Examining Safety in NYC Parks” to discuss certain increases in crime in parks. At that hearing, the issue of the NYPD’s failure to comply with the intention of Local Law 114 was raised by multiple Council Members. In response, the NYPD stated the following:

“In 2005, when we negotiated the terms of the law it was very clear to both the administration and the council that – and we put language in the law to the effect – it was not technologically feasible to do anything but a stick count at that point. And because the fundamental way in which [the NYPD] capture[s] crime data is by street address and/or cross streets, that information cannot be plotted and it cannot be entered in what you would have hoped to be a GPS type system or something that would be able to place a crime within a park as opposed to outside the park. So the technological limitations of our database and the way in which we report crime is still so limited.”⁸

As of the last quarterly report received by the Council on November 18, 2013, which covered the third quarter of 2013, the NYPD continues to report only on the above-referenced 30 city parks, plus Central Park.⁹ While the NYPD is not technically in violation of the language of Local Law 114, it is the Committee on Public Safety’s concern that the NYPD is in violation of the spirit of the law, which was passed over 7 years ago with a gradual phase-in approach. While the law took into consideration the NYPD’s technological concerns, it was for the safety of all New Yorkers who use city parks on a daily basis that the Council intended for the NYPD to provide this information within a reasonable timeframe.

For this reason, the Committee on Public Safety heard testimony on Int. No. 859, which would amend Local Law 114 to create a new timetable for NYPD compliance in order to ensure adequate reporting. As a result of that hearing, Int. No. 859 was amended to modify the timetable so that it provides NYPD with enough time to prepare for the increased reporting and also to ensure that major felony crime complaint data for all public pools, basketball courts, recreation centers, and playgrounds that are not located within parks one acre or greater in size will also be reported to the Council in the future.

⁵ See Testimony from NYPD Assistant Commissioner Susan Petito at the joint hearing of the Committee on Public Safety and the Committee on Parks and Recreation, January 30, 2012.
⁶ Data on file with Committee on Public Safety.

III. PROPOSED INT. NO. 859-A

In order to achieve the original objectives of Local Law 114, today the

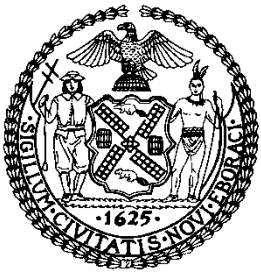
Committee will be voting on Proposed Int. No. 859-A.

Section 1 of Proposed Int. No. 859-A amends paragraph 4 of subdivision a of section 14 150 of the Administrative Code of the City of New York. Specifically, the bill requires the NYPD to report the crime complaint data for all properties under the jurisdiction of the Department of Parks and Recreation, pursuant to the following timetable: (1) beginning January 1, 2014, the NYPD must report the data for the thirty largest parks, as determined by acreage; (2) beginning June 1, 2014, the NYPD must report data for the one hundred largest parks, as determined by acreage; (3) beginning January 1, 2015, the NYPD must report the data for the two hundred largest parks, as determined by acreage; (4) beginning January 1, 2016, the NYPD must report the data for the three hundred largest parks, as determined by acreage; (5) beginning January 1, 2017, the NYPD must report data for all parks one acre or greater in size; and (6) beginning January 1, 2018, the NYPD must report data for all public pools, basketball courts, recreation centers, and playgrounds that are not located within parks one acre or greater in size. In order to ensure compliance with this timetable and with the Council’s intention to receive data for all reportable parks, this bill removes the language that makes compliance “subject to the availability of resources and the introduction of the necessary technology.”

Additionally, the bill requires the NYPD to conspicuously post all quarterly reports of major felony crime complaints for parks online via the department’s website within 5 business days of the department’s submission of such reports to the Council.

Section 2 of the bill provides that this law will take effect immediately after its enactment into law.

(The following is the text of the Fiscal Impact Statement for Int. No. 859-A:)



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

INTRO. NO: 859-A

COMMITTEE:
Public Safety

TITLE: A local law to amend the administrative code of the city of New York, in relation to requiring the police department to submit to the council reports of crime in all parks and playgrounds within the City that are greater than one acre in size.

SPONSOR(S): Council Members Vallone, Comrie, Eugene, Ferreras, Fidler, Gentile, Jackson, James, Koppell, Lander, Mendez, Recchia, Rose, Williams, Wills, Rodriguez, Halloran, Oddo and Ulrich

SUMMARY OF LEGISLATION: This legislation would require the Police Department to supply a crime report that includes total number of major felony crime complaints for properties under the jurisdiction of the Department of Parks and Recreation to the City Council that are one acre or greater in size each quarter. Additionally, this legislation would require the Police Department to post all quarterly reports online via the Police Department’s website within five business days of submitting the crime status report to City Council. This legislation includes the following timetable to begin reporting crime complaints for parks: (1) by January 1, 2014, the thirty largest parks; (2) by June 1, 2014, one hundred largest parks; (3) by January 1, 2015, two hundred largest parks; (4) by January 1, 2016, three hundred largest parks; (5) by January 1, 2017, all parks one acre or greater in size; and (6) by January 1, 2018, all public pools, basketball courts, recreation centers, and playgrounds that are not located within parks one acre or greater in size.

EFFECTIVE DATE: This bill will take effect immediately.

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 impact on revenue resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: Since the Police Department already reviews crime complaints and reports on crime in certain parks, the Department could comply with the requirements of this proposed legislation using existing resources. There would be no impact on expenditures as a result from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Ellen Eng, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director

LEGISLATIVE HISTORY: Int. No. 859 was introduced on May 15, 2012 and referred to the Committee on Public Safety. A hearing was held and the legislation was laid over on November 22, 2013 by the Committee. The Committee will reconsider an amended version of the legislation, Proposed Int. No. 859-A, on December 16, 2013 and upon successful vote, the bill would be submitted to the full Council for a vote.

DATE SUBMITTED TO COUNCIL: December 16, 2013

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 859-A:)

Int. No. 859-A

By Council Members Vallone, Jr., Comrie, Eugene, Ferreras, Fidler, Gentile, Jackson, James, Koppell, Lander, Mendez, Recchia, Rose, Williams, Wills, Rodriguez, Garodnick, Gennaro, Crowley, Van Bramer, Greenfield, Lappin, Halloran, Oddo and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the police department to submit to the council reports of crime in all parks and playgrounds within the City that are greater than one acre in size.

Be it enacted by the Council as follows:

Section 1. Paragraph 4 of subdivision a of section 14-150 of the administrative code of the city of New York, as amended by local law number 114 for the year 2005, is amended to read as follows:

4. A crime status report. Such report shall include the total number of crime complaints (categorized by class of crime, indicating whether the crime is a misdemeanor or felony) for each patrol precinct, including a subset of housing bureau and transit bureau complaints within each precinct; arrests (categorized by class of crime, indicating whether the arrest is for a misdemeanor or felony) for each patrol precinct, housing police service area, transit district, street crime unit and narcotics division; summons activity (categorized by type of summons, indicating whether the summons is a parking violation, moving violation, environmental control board notice of violation, or criminal court summons) for each patrol precinct, housing police service area and transit district; domestic violence radio runs for each patrol precinct; average response time for critical and serious crimes in progress for each patrol precinct; overtime statistics for each patrol borough and operational bureau performing an enforcement function within the police department, including, but not limited to, each patrol precinct, housing police service area, transit district and patrol borough street crime unit, as well as the narcotics division, fugitive enforcement division and the special operations division, including its subdivisions, but shall not include internal investigative commands and shall not include undercover officers assigned to any command. Such report shall also include the total number of major felony crime complaints for [the twenty largest parks, as determined by acreage,] *properties* under the jurisdiction of the department of parks and recreation, [. In addition, the department shall submit to the council, subject to the availability of resources and the introduction of the necessary technology, the total number of major felony crime complaints,] pursuant to the following timetable:[, for parks under the jurisdiction of the department of parks and recreation:]

1. [By one year after enactment of this law] *Beginning January first, two thousand fourteen*, the [one hundred] *thirty* largest parks, as determined by acreage;

2. [By two years after enactment of this law] *Beginning June first, two thousand fourteen*, the *one* [two] hundred largest parks, as determined by acreage; [and]

3. [By three years after enactment of this law, all parks one acre or greater in size,] *Beginning January first, two thousand fifteen, the two hundred largest parks, as determined by acreage;*

4. *Beginning January first, two thousand sixteen, the three hundred largest parks, as determined by acreage;*

5. *Beginning January first, two thousand seventeen, all parks one acre or greater in size; and*

6. *Beginning January first, two thousand eighteen, all public pools, basketball courts, recreation centers, and playgrounds that are not located within parks one acre or greater in size.*

The department shall conspicuously post all quarterly reports of major felony crime complaints for properties under the jurisdiction of the department of parks and recreation online via the department's website within five business days of the department's submission of such reports to the council.

§2. This local law shall become effective immediately.

PETER F. VALLONE, Jr. Chairperson; ERIK MARTIN DILAN, DANIEL R. GARODNICK, DAVID G. GREENFIELD; Committee on Public Safety, December 16, 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 Sanitation and Solid Waste Management

Report for Int. No. 1060-A

Report of the Committee on Sanitation and Solid Waste Management 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 restrictions on the sale or use of certain expanded polystyrene items.

The Committee on Sanitation and Solid Waste Management, to which the annexed amended proposed local law was referred on June 12, 2013 (Minutes, page 1928), respectfully

REPORTS:

Introduction

On Thursday, December 19, 2013, the Committee on Sanitation and Solid Waste Management (the "Committee"), chaired by Council Member Letitia James, will conduct a second hearing on Proposed Int. No. 1060-A, in relation to restrictions on the sale or use of certain polystyrene items, and 1162-A, in relation to commercial organic waste. The Committee held first hearings for these bills on November 25 and November 22, respectively.

Proposed Int. No. 1060-A

Proposed Int. No. 1060-A calls on the commissioner of the Department of Sanitation ("DSNY") to determine the recyclability of expanded polystyrene ("foam") in the City's existing infrastructure. If the commissioner determines that foam is sortable and that other conditions are met, including, notably, that legitimate markets exist for purchasing used polystyrene foam food and beverage containers for the purpose of recycling these materials in the manufacture of new products, then the commissioner would be required to designate expanded polystyrene as a recyclable within the City's existing residential recycling program. If, in the alternative, the commissioner determines that foam is not recyclable, then the commissioner would be required to ban the material in food service establishments, food commissaries and retail stores.

Expanded polystyrene occupies a relatively small fraction of the City's waste and recycling streams, comprising .65% of the refuse stream and .1% of the metal, glass, plastic recycling stream.¹ In comparison, PET bottles occupy .77% of the refuse stream and 5.39% of the metal, glass and plastic recycling stream.² In conversations with Council Members, staff and other City representatives, expanded polystyrene manufacturers have indicated that they would like to work with DSNY and its recycling contractor, Sims Municipal Recycling, to ensure that expanded polystyrene will be sortable within the DSNY system and to assist with finding markets for the sorted foam. Currently, a small minority of jurisdictions recycle foam through curbside recycling programs and there are uncertainties as to whether dirty

foam is recyclable. In addition, it is also unclear what markets exist for foam on the recycled commodities market.

Proponents of banning foam point to environmental and human health benefits of eliminating the material. According to the EPA, short-term exposure to styrene, a main ingredient in making foam, can cause eye, mucous membrane, and gastrointestinal irritation, while chronic (long-term) exposure can impact the central nervous system, causing symptoms such as headache, fatigue, and depression. In terms of developmental or reproductive effects, human studies are inconclusive. Similarly, epidemiological studies of styrene and cancer are "inconclusive," and "EPA has not given a formal carcinogen classification to styrene."³ A recent court decision allowed the United States government to list styrene as "a reasonable anticipated human carcinogen" in the Department of Health and Human Service's "12th Report on Carcinogens." The primary risk would be to workers improperly exposed to styrene in the manufacturing process.⁴ According to the United States Department of Health and Human Services, the best way to avoid such risk is:

- Stop smoking. Styrene is found in tobacco smoke.
- Limit children's exposure to tobacco smoke.
- Adhere to federal workplace regulations.

"Workers and employers should practice good occupational health behaviors. This may include wearing protective clothing, respirators, and gloves. Work places should be well ventilated." They also state that there is no risk from using polystyrene products.⁵

Changes to Proposed Int. No. 1060-A

The Committee has made several notable changes to Proposed Int. No. 1060-A since the bill was originally heard on November 25 including the following:

- A six-month grace period was added to the enforcement section.
- The Committee defined the terms "economically feasible" and "safe for employees" and altered and defined the term "environmentally effective."
- The Committee added language calling on the DSNY commissioner to consult with the City's recycling contractor, foam manufacturers and recyclers and any other person or group having expertise on expanded polystyrene before making the recyclability determination.
- The recyclability determination is to be based on recyclability at the Sims recycling facility at the South Brooklyn Marine Terminal and is to apply to single service articles, as that term is defined in the bill.
- The commissioner must report his or her recyclability determination.
- A hardship exemption was added for non-profits and small food service establishments.

Proposed Int. No. 1162-A

Proposed Int. No. 1162-A would require restaurants, grocery stores, caterers and other food service establishments of a certain size or number within the City that generate significant food waste to source-separate organic waste beginning July 1, 2015 for composting, aerobic or anaerobic digestion or any other method approved by the DSNY commissioner. At such time, and regularly thereafter, the DSNY commissioner would be required to evaluate the capacity of facilities within 100 miles of the City that compost, digest or otherwise process organic waste in a manner approved by the DSNY commissioner. If the commissioner determines that there is sufficient capacity at a cost that is competitive with that of regular waste collection and landfilling or incinerating, the commissioner must designate covered establishments that generate an amount of organic waste estimated to be commensurate with the commissioner's evaluated capacity.

New York City's commercial waste stream is comprised of roughly 35,000 tons of waste per day, approximately 30% of which is made up of organic waste such as food scraps. Although organic waste can be composted, currently almost all commercial organic waste generated in New York City is either landfilled or incinerated.

The greatest impediment to composting more of the City's organic waste appears to be a lack of sufficient composting capacity in or around the City. At this time, there are no known facilities that accept source-separated commercial organic waste for composting located in the City and composting capacity around the city is very limited. In addition, few, if any, City transfer stations accept source-separated organic waste and deliver the material to composting facilities outside of the City.⁶

In order to spur development of additional composting capacity, it is likely that potential composting operations would need assurances that a steady and reliable stream of organic material is available from commercial establishments in New York. Although some restaurants and other food service entities have begun to compost their organic waste independently, that number is relatively small and, as noted above, there is little or no opportunity for commercial establishments to compost in

the first place. This lack of participation appears to have a cyclical effect, thereby limiting the establishment of a reliable stream of material. One possible way to address this disconnect is to establish a requirement ensuring that there will be a steady and reliable stream of source-separated organics in the future, which is part of the objective of Proposed Int. No. 1162-A.

Changes to Proposed Int. No. 1162-A

The Committee has made several notable changes to Proposed Int. No. 1162-A including the following:

- The commissioner’s determination is based on a range of 100, not 125 miles.
- Rather than providing three one-year delays for the law’s implementation, the revised version calls on the commissioner to make capacity determinations immediately and regularly upon the bills effective date and to require composting commensurate with that amount.
- Aerobic digestion is included as an appropriate processing method.
- A waiver was added for persons owning two or fewer food service establishments.
- The Committee added a grace period.

¹ NYC Dep’t of Sanitation 2004-05 Waste Characterization Study, Section 2, Detailed Residential Results, Table 1-24, page 2.

² *Id.*

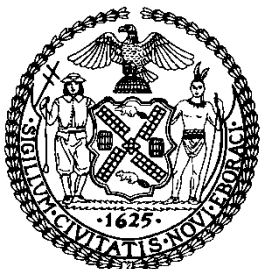
³ <http://www.epa.gov/ttnatw01/hlthef/styrene.html>

⁴ <http://www.bna.com/styrene-listed-carcinogen-n17179874089/>

⁵ <http://www.niehs.nih.gov/health/topics/agents/sya-roc/#styrene01>

⁶ Anecdotally, several transfer station operators have signaled an interest in accepting source-separated organics from commercial carters for composting, but at this time none appear to be accepting such material.

(The following is the text of the Fiscal Impact Statement for Int. No. 1060-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: 1060-A
COMMITTEE:
Committee on
Sanitation and Solid
Waste Management

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to restrictions on the sale or use of certain polystyrene items.

SPONSOR(S): Council Members Fidler, James, Gentile, Brewer, King, Koslowitz, Lander, Levin, Vann, Dromm, Ferreras, Gonzalez, Mendez, Richards, Rivera, Van Bramer, Chin, Nelson, Garodnick, Gennaro, Rodriguez, Koo, Vallone, and Koppell, (in conjunction with the Mayor).

SUMMARY OF LEGISLATION: Proposed Int. No. 1060-A would amend New York City’s Administrative Code in relation to restrictions on the sale or use of certain polystyrene items and expand the service provision of the recycling enforcement provision to include circumstances where service of a notice of violation is to a food service establishment, mobile food commissary, store, or manufacturer.

The legislation adds a new subdivision that states that any person who violates this amendment would be liable for a civil penalty 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 different days within a period of twelve months.

The legislation calls on the DSNY commissioner, no later than January first, two thousand fifteen, to determine whether expanded polystyrene can be recycled in a manner that is environmentally responsible, economically practical, safe for employees involved in such recycling and without a significant amount of expanded polystyrene accepted for recycling being delivered to landfills or incinerators. If the commissioner makes such a determination, he or she would be required to adopt and implement rules designating expanded polystyrene as a recyclable material and require the source separation of such expanded polystyrene for department-managed recycling.

If expanded polystyrene is not designated as a recyclable material, beginning July first, two thousand fifteen, the legislation would prohibit food service establishments, mobile food commissaries, or stores from selling or providing single service articles that consist of expanded polystyrene. This subdivision would not apply to expanded polystyrene containers used for prepackaged food that have been filled and sealed prior to receipt by the food service establishment or store and expanded polystyrene containers used to store raw, butchered meats, fish or poultry sold from a butcher case or similar retail appliance.

In addition, if expanded polystyrene is not designated as a recyclable material, then beginning July first, two thousand fifteen, no manufacturer or store would be allowed to sell or offer for sale polystyrene loose fill packaging in the city of New York.

This legislation authorizes the DSNY, the Police Department, the Department of Health and Mental Hygiene and the Department of Consumer Affairs to enforce the provisions of this subchapter.

This local law shall take effect immediately.

EFFECTIVE DATE: This local law would take effect immediately.

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: No impact on revenues is expected.

IMPACT ON EXPENDITURES: No impact on expenditures is expected.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: Mayor’s Office of Legislative Affairs
Department of Sanitation (DSNY)

ESTIMATE PREPARED BY: Nathan Toth, Deputy Director

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

LEGISLATIVE HISTORY: On June 12, 2013, Intro. 1060 was introduced by the Council and referred to the Committee on Sanitation and Solid Waste Management. On November 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. 1060-A, on December 19, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1060-A on December 19, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1060-A:)

Int. No. 1060-A

By Council Members Fidler, James, Gentile, Brewer, King, Koslowitz, Lander, Levin, Vann, Dromm, Ferreras, Gonzalez, Mendez, Richards, Rivera, Van Bramer, Chin, Nelson, Garodnick, Gennaro, Rodriguez, Koo, Vallone, Koppell and Lappin (in conjunction with the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to restrictions on the sale or use of certain expanded polystyrene items.

Be it enacted by the Council as follows:

Section 1. 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 77 for the year 2013, is amended to read as follows:

a. Subject to the provisions of subdivision b of this section, any person who violates this chapter, except subdivision g of section 16-308 of this chapter [or], *section 16-310.1 of this chapter or section 16-329 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:

§ 2. Subdivision d 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:

d. Any notice of violation or notice of hearing for a violation issued to the owner, net lessee or person in charge of a premises *or to a food service establishment, mobile food commissary, store, or manufacturer, as those terms are defined in section 16-329 of this chapter*, at which or by whom a violation of this chapter or any rule promulgated pursuant thereto is alleged to have occurred *or to have been committed* shall be served by delivering a copy of the notice thereof at the address maintained in the records of the department of housing preservation and development [or], the department of finance, *or the department of health and mental hygiene*. The notice of violation or notice of hearing may be served by regular mail or in accordance with section one thousand forty-nine-a of the charter *or, if such notice is served by an agency other than the department, in accordance with the rules of such agency*.

§ 3. Section 16-324 of the administrative code of the city of New York is amended by adding a new subdivision f to read as follows:

f. *Any person who violates section 16-329 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, the commissioner of health and mental hygiene or the commissioner of consumer affairs, or in a proceeding before the environmental control board, the health tribunal at the office of administrative trials and hearings, or the administrative tribunal of the department of consumer affairs, 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 different days within a period of twelve months, except that the department, the department of health and mental hygiene, and the department of consumer affairs shall not issue a notice of violation, but shall issue a warning and provide information on replacement material, for any violation that occurs before January first, two thousand sixteen.*

§ 4. Chapter 3 of title 16 of the administrative code of the city of New York is amended by adding a new subchapter nine to read as follows:

SUBCHAPTER 9

RESTRICTIONS ON THE SALE OR USE OF CERTAIN EXPANDED POLYSTYRENE ITEMS

§16-329 Restrictions on the sale or use of certain expanded polystyrene items. a. Definitions. When used in this section:

“Chain food service establishment” means five or more food service establishments located within the city that (1) conduct business under the same business name or (2) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

“Chain store” means five or more stores located within the city that (1) conduct business under the same business name or (2) operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

“Economically feasible” means cost effective based on consideration of factors including, but not limited to, direct and avoided costs such as whether the material is capable of being collected by the department in the same truck as source separated metal, glass and plastic recyclable material, and shall include consideration of markets for recycled material.

“Environmentally effective” means not having negative environmental consequences including, but not limited to, having the capability to be recycled into new and marketable products without a significant amount of material accepted for recycling being delivered to landfills or incinerators.

“Expanded polystyrene” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead foam), injection molding, foam molding, and extrusion-blown molding (extruded foam polystyrene). Such term shall not include rigid polystyrene.

“Food service establishment” means a 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 or is provided from a pushcart, stand or vehicle. Food service establishment shall include, but not be limited to, full-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks or carts and cafeterias.

“Manufacturer” means every person, firm or corporation that:

1. produces expanded polystyrene or polystyrene loose fill packaging that is sold or distributed in the city; or

2. imports expanded polystyrene or polystyrene loose fill packaging that is sold or distributed in the city.

“Mobile food commissary” means any facility that:

1. disposes of solid waste generated by the operation of a food service establishment that is located in or is a pushcart, stand or vehicle; or

2. supplies potable water and food, whether pre-packaged or prepared at the mobile food commissary, and supplies non-food items.

“Polystyrene loose fill packaging,” commonly known as packing peanuts, means a void-filling packaging product made of expanded polystyrene that is used as a packaging fill.

“Safe for employees” means that, among other factors, the collection and sorting of any source separated material does not pose a greater risk to the health and safety of persons involved in such collection and sorting than the risk associated with the collection and sorting of any other source separated recyclable material in the metal, glass and plastic recycling stream.

“Single service articles” means cups, containers, lids, closures, trays, plates, knives, spoons, stoppers, paddles, straws, place mats, napkins, doilies, wrapping materials, toothpicks and all similar articles that are intended by the manufacturer to be used once for eating or drinking or that are generally recognized by the public as items to be discarded after one use.

“Store” means a retail or wholesale establishment other than a food service establishment.

b. No later than January first, two thousand fifteen, the commissioner shall determine, after consulting with the department’s designated recycling contractor for metal, glass and plastic materials, manufacturers and recyclers of expanded polystyrene, and, in the commissioner’s discretion, any other person or group having expertise on expanded polystyrene, whether expanded polystyrene single service articles can be recycled at the designated recycling processing facility at the South Brooklyn Marine Terminal in a manner that is environmentally effective, economically feasible, and safe for employees. At such time, the commissioner shall report to the mayor and the council on such determination. If the commissioner determines that expanded polystyrene single service articles can be recycled in such manner, the commissioner shall adopt and implement rules designating expanded polystyrene single service articles and, as appropriate, other expanded polystyrene products, as a recyclable material and require the source separation of such expanded polystyrene for department-managed recycling.

c. If expanded polystyrene single service articles are not designated as a recyclable material pursuant to subdivision b of this section, then, on and after July first, two thousand fifteen, no food service establishment, mobile food commissary, or store shall possess, sell, or offer for use single service articles that consist of expanded polystyrene including, but not limited to, providing food in single service articles that consist of expanded polystyrene. This subdivision shall not apply to (1) expanded polystyrene containers used for prepackaged food that have been filled and sealed prior to receipt by the food service establishment, mobile food commissary, or store or (2) expanded polystyrene containers used to store raw meat, pork, fish, seafood or poultry sold from a butcher case or similar retail appliance.

d. If expanded polystyrene single service articles are not designated as a recyclable material pursuant to subdivision b of this section, then, on and after July first, two thousand fifteen, no manufacturer or store shall sell or offer for sale polystyrene loose fill packaging in the city.

e. Any not-for-profit corporation, regardless of its income, and any food service establishment, mobile food commissary, or store that had a gross income under five hundred thousand dollars per location on their annual income tax filing for the most recent tax year and is not part of a chain food service establishment or a chain store may request from the commissioner of small business services, in a manner and form established by such commissioner, a financial hardship waiver of the requirements of this section. Such waiver request may apply to one or more single service articles possessed, sold, or offered for use by any such not-for-profit corporation, food service establishment, mobile food commissary, or store. The commissioner of small business services shall, after consultation with the commissioner, grant such waiver if such not-for-profit corporation, food service establishment, mobile food commissary, or store proves: (1) that there is no comparable alternative product not composed of expanded polystyrene that would cost the same as or less than the single service article composed of expanded polystyrene, and (2) that the purchase or use of an alternative product not composed of expanded polystyrene would create an undue financial hardship. Such financial hardship waiver shall be valid for twelve months and shall be renewable upon application to the commissioner of small business services. A pending application for such financial hardship waiver shall be a defense to any notice of violation issued pursuant to this section to which such pending application relates and such notice of violation shall be dismissed.

f. On and after January first, two thousand fifteen, the department shall provide outreach and education as follows:

(1) if expanded polystyrene single service articles are not designated as a recyclable material pursuant to subdivision b of this section, the department, in consultation with the department of health and mental hygiene and the department of consumer affairs, shall conduct outreach and education to food service establishments, mobile food commissaries, and stores to inform them of the provisions of this section and provide assistance with identifying replacement material, and such outreach and education shall be offered in multiple languages; and

(2) if expanded polystyrene single service articles are designated as a recyclable material pursuant to subdivision b of this section, the department shall provide instruction and materials for residential building owners, net lessees or persons in charge of such buildings, and their employees and residents, for the purpose of improving compliance with such new recycling designation.

g. The department, the department of health and mental hygiene and the department of consumer affairs shall have the authority to enforce the provisions of this section.

§ 5. This local law shall take effect immediately.

LETITIA JAMES, Chairperson; MICHAEL C. NELSON, ROBERT JACKSON, MARIA del CARMEN ARROYO; Committee on Sanitation and Solid Waste Management; December 19, 2013.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1060-A:)

**THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to restrictions on the sale or use of certain expanded polystyrene items.

Given under my hand and seal this 19th day of December, 2013 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

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 Res. No. 2058-A

Report of the Committee on Sanitation and Solid Waste Management in favor of approving, as amended, a Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1060-A.

The Committee on Sanitation and Solid Waste Management, to which the annexed amended proposed local law was referred on December 10, 2013 (Minutes, page 5225), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int No. 1160-A printed in these Minutes)

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Res. No. 2058-A:)

Res. No. 2058-A

Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1060-A.

By Council Member Fidler.

Whereas, The enactment of Proposed Int. No. 1060-A is an "action" as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

Whereas, An Environmental Assessment Statement for this bill was prepared on behalf of the Office of the Mayor and the Council, which are co-lead agencies pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review; and

Whereas, The Environmental Assessment Statement for this bill was prepared pursuant to Article 8 of the New York State Environmental Conservation Law, section 617.7 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review; and

Whereas, The Council, as a co-lead agency, has considered the relevant environmental issues as documented in the Environmental Assessment Statement attendant to such enactment and in making its findings and determinations under the Rules of Procedure for City Environmental Quality Review and the State Environmental Quality Review Act, the Council has relied on that Environmental Assessment Statement; and

Whereas, After such consideration and examination, the Council has determined that a Negative Declaration should be issued; and

Whereas, The Council has examined, considered and endorsed the Negative Declaration that was prepared; now, therefore, be it

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

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

(2) as documented in the annexed Environmental Assessment Statement, the proposed action is one which will not result in any significant adverse environmental impacts; and

(3) the annexed Negative Declaration constitutes the written statement of facts and conclusions that form the basis of this determination.

LETITIA JAMES, Chairperson; MICHAEL C. NELSON, ROBERT JACKSON, MARIA del CARMEN ARROYO; Committee on Sanitation and Solid Waste Management; December 19, 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. 1162-A

Report of the Committee on Sanitation and Solid Waste Management 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 commercial organic waste.

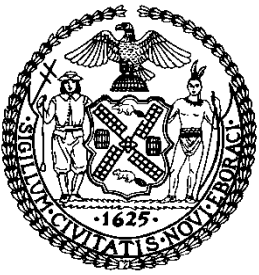
The Committee on Sanitation and Solid Waste Management, to which the annexed amended proposed local law was referred on September 24, 2013 (Minutes, page 3742), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int No. 1160-A printed in these Minutes)

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of the Fiscal Impact Statement for Int. No. 1162-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: 1162-A

COMMITTEE:
Committee on
Sanitation and Solid
Waste Management

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to commercial organic waste.

SPONSOR(S): Council Members James, Brewer, Chin, Fidler, Gentile, Koo, Rodriguez, Van Bramer, Mark-Viverito, Gennaro, Koppell, and Ulrich (by request of the Mayor)

SUMMARY OF LEGISLATION: Proposed Int. No. 1162-A would establish a commercial composting program aimed at large commercial generators of food and other organic waste such as large restaurants, grocery stores and catering companies. The bill is likely to impact roughly 5% of restaurants, but would capture more than 30% of the organic waste generated by restaurants in the City.

The composting requirement would go into effect beginning in July 1, 2015 but the bill allows the commissioner to delay implementation for up to five years, until such time that there are at least three composting facilities in operation within a 95-mile radius of the City that have sufficient capacity at reasonable cost.

Once the composting requirements are in effect, the impacted food service establishments would be required to compost their food waste by either (i) contracting with a private carter, (ii) transporting its own organic waste, or (iii) providing for on-site in-vessel composting. In addition, the impacted food service establishments would be required to provide separate bins for the disposal of organic waste in areas where such waste is disposed of and post instructions on proper separation of organic waste. Finally, the impacted food service establishments would be required to post a sign on or near its front door with information indicating how the location composts its organic waste.

The bill also includes a six-month grace period when DSNY and other enforcing agencies can only issue warnings, and not tickets.

EFFECTIVE DATE: Bill section 4 states that this local law would take effect immediately, except that subdivision e of section 16-324 of the Administrative Code would take effect six months after the implementation of section 16-306.1

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: No impact on revenues is expected.

IMPACT ON EXPENDITURES: No impact on expenditures is expected.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: Mayor’s Office of Legislative Affairs
Department of Sanitation (DSNY)

ESTIMATE PREPARED BY: Nathan Toth, Deputy Director

ESTIMATED REVIEWED BY: Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: On September 24, 2013, Intro. 1162 was introduced by the Council and referred to the Committee on Sanitation and Solid Waste Management. On November 22, 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. 1162-A, on December 19, 2013. Following a successful Committee vote, the Full Council will vote on Proposed Int. 1170-A on December 19, 2013.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1162-A:)

Int. No. 1162-A

By Council Members James, Brewer, Chin, Fidler, Gentile, Koo, Rodriguez, Van Bramer, Mark-Viverito, Gennaro, Koppell, Lappin and Ulrich (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. Subchapter 2 of chapter 3 of 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 chapter:

“Arena” means an establishment or facility that hosts live sporting or entertainment events.

“Capacity” means the combined capacity of facilities that are capable of accepting and processing, consistent with the terms of this section and exceeding a nominal amount, organic waste expected to be generated by and collected from designated covered establishments.

“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 of at least twenty-five thousand square feet;

2. any location at which a food wholesaler has a floor area of at least twenty thousand square feet;

3. any location at which a retail food store has a floor area of at least ten thousand square feet, or any retail food store that is part of a chain of three or more retail food stores that have a combined floor area space of at least ten thousand square feet and that operate under common ownership or control and receive waste collection from the same private carter;

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 two or more food service establishments that have a combined floor area of at least eight thousand square feet and that: (i) operate under common ownership or control; (ii) are individually franchised outlets of a parent business; or (iii) do business under the same corporate name, provided that the requirements of subparagraph (i) of paragraph 1 of subdivision c of this section shall not apply to any such food service establishment when the building or premises in which such food service establishment is located is in compliance with such requirement pursuant to paragraph seven of this definition;

6. any location at which a food service establishment has a floor area of at least seven thousand square feet, provided that the requirements of subparagraph (i) of paragraph 1 of subdivision c of this section shall not apply to any such location when the building or premises containing such location is in compliance with such requirement pursuant to paragraph seven of this definition;

7. any building or premises where food service establishments having a total combined floor area of at least eight thousand square feet are located and where the owner of the building or premises, or its agent, arranges or contracts with a private carter for the removal of waste from food service establishments having no less than eight thousand square feet of such building or premises, provided that any such food service establishments shall comply with the requirements of subparagraphs (ii), (iii) and (iv) of paragraph 1 of subdivision c of this section, but such requirements shall not apply to the owner or agent of any such building or premises;

8. any location at which a food preparation establishment has a floor area of at least six thousand square feet;

9. any catering establishment that is 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;

10. any food service establishments located within and providing food to one or more hotels totaling at least one hundred sleeping rooms; and

11. sponsors of a temporary public event.

“Designated area” means within a one hundred mile radius of the city.

“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 for a temporary, fixed time, or based on contractual arrangements for a specified period of time at locations other than such establishment’s permanent place of business.

“Food service establishment” means any premises or part of a premises that is required to provide for the removal of waste pursuant to section 16-116 of this code 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 not include retail food stores, convenience stores, pharmacies, and mobile food vending units, as such term is defined in section 89.03 of the health code. Food service establishment shall also not include any premises or place of business where the sole or primary source of food is a refreshment counter where the available food is limited to items such as beverages, prepackaged items, and snacks.

“Food wholesaler” means any establishment primarily engaged in the wholesale distribution of groceries and related products including, but not limited to, packaged frozen food, dairy products, poultry products, confectioneries, fish and seafood, meat products, and fresh fruits and vegetables but shall not apply to establishments that handle only pre-packaged, non-perishable foods.

“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 controlled conditions of temperature and moisture and where air-borne emissions are controlled.

“Organic waste” shall have the same meaning as set forth in section 16-303 of this title, except that for purposes of this section, organic waste shall not include food that is donated to a third party, food that is sold to farmers for feedstock, and meat by-products that are sold to a rendering company.

“Private carter” means 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 offered to the consumer are intended for off-premises consumption, but shall exclude convenience stores, pharmacies, greenmarkets or farmers’ markets and food service establishments.

“Sponsor of a temporary public event” means the applicant for a street activity permit pursuant to chapter 1 of title 50 of the rules of the city of New York, or any successor provision, for 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 where the activity will interfere with or obstruct the regular use of the location by pedestrian or vehicular traffic. Such term shall not include activities conducted pursuant to a valid film permit, demonstrations, parades or block parties.

“Stadium” means an establishment or facility that hosts live sporting or entertainment events.

b. The commissioner shall, on a regular basis and no less than annually, evaluate the capacity of all facilities within the designated area and the cost of processing organic waste by composting, aerobic or anaerobic digestion, or any other method of processing organic waste that the department approves by rule. If the commissioner determines that there is sufficient capacity and that the cost of processing organic waste consistent with this section is competitive with the cost of disposing of organic waste by landfill or incineration, he or she shall designate by rule all covered establishments or a subset of covered establishments, based on any criteria, among such covered establishments, that generate a quantity of organic waste that would not exceed the evaluated capacity. All such designated covered establishments shall comply with the requirements of subdivision c of this section beginning no later than six months following such designation. In addition, the commissioner shall include in his or her evaluation the capacity of any facilities outside of the designated area that have arrangements or contracts with transfer stations or private carters to accept and process organic waste generated by and collected from covered establishments.

c. 1. Each designated covered establishment shall:

i. either (A) ensure collection by a private carter of all organic waste generated by such establishment for purposes of composting, aerobic or anaerobic digestion, or any other method of processing organic waste that the department approves by rule, (B) transport its own organic waste to a facility that provides for composting, aerobic or anaerobic digestion, or any other method of processing organic waste that the department approves by rule, provided that the 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, aerobic or anaerobic digestion, or any other method of processing organic waste that the department approves by rule for some or all of the organic waste it generates on its premises, provided that it arranges for the collection or transport of the remainder of such organic waste, if any, 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 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, that such

covered establishment transports its own organic waste, or that such covered establishment provides for on-site processing for all of the organic waste it generates on its premises, provided that:

(A) 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 or, if this is not possible, prominently displayed inside the covered establishment near the principal entrance;

(B) 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; and

(C) this paragraph 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, provided that this subparagraph shall not apply to sponsors of temporary public events.

2. 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 or containers that (i) has a lid and a latch that keeps the lid closed and is resistant to tampering by rodents or other wildlife, (ii) has the capacity that meets the disposal needs of the covered establishment and its private carter, (iii) is compatible with 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 collects source separated organic waste from a covered establishment shall either:

i. deliver collected organic waste to a transfer station that has represented that it will deliver such organic waste to a facility for purposes of composting, aerobic or 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, aerobic or anaerobic digestion, or any other method of processing organic waste that the department approves by rule.

d. Any transfer station that receives source separated organic waste pursuant to this section shall deliver or have delivered such organic waste directly to a facility that accepts organic waste for purposes of composting, aerobic or 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. The provisions of this section relating to covered establishments shall be enforced by the department, the department of health and mental hygiene, and the department of consumer affairs.

f. The department, the business integrity commission, the department of health and mental hygiene, and the department of consumer affairs may promulgate any rules necessary to implement this section, including, but not limited to, rules establishing reporting requirements sufficient to demonstrate compliance with this chapter.

g. Any person who owns or operates two or fewer food service establishments may request, and the commissioner shall grant, a waiver of the requirements of this section if: (1) no single food service establishment has a floor area of at least seven thousand square feet; (2) the food service establishment or establishments are individually franchised outlets of a parent business covered by paragraph five of the definition of “covered establishment” set forth in subdivision a of this section; and (3) the owner or operator establishes that such food service establishment or establishments do not receive private carting services through a general carting agreement between a parent business and a private carter. Such waiver shall be valid for twelve months and shall be renewable upon application to the commissioner via the department’s website.

§ 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 77 for the year 2013, 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 g 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 covered establishment that violates section 16-306.1 of this chapter or rules of the department, the department of health and mental hygiene, or the department of consumer affairs 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 health and mental hygiene, or the commissioner of consumer affairs, or in a proceeding returnable before the environmental control board, the health tribunal at the office of administrative trials and hearings, or the administrative tribunal of the department of consumer affairs, 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 different days within a period of twelve months, except that the department, the department of health and mental hygiene, and the department of consumer affairs shall not issue a notice of violation, but shall issue a warning, for any violation by a designated covered establishment that occurs during the first twelve months after the

commissioner designates such covered establishment pursuant to subdivision b of section 16-306.1.

(2) Any transfer station that violates section 16-306.1 of this chapter or rules of the department 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 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 different days within a period of twelve months, except that the department shall not issue a notice of violation, but shall issue a warning, for any violation by a designated covered establishment that occurs during the first twelve months after the commissioner designates such covered establishment pursuant to subdivision b of section 16-306.1.

(3) 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, except that the chair of the business integrity commission shall not issue a notice of violation, but shall issue a warning, for any violation by a designated covered establishment that occurs during the first twelve months after the commissioner designates such covered establishment pursuant to subdivision b of section 16-306.1.

§ 4. This local law shall take effect July 1, 2015.

LETITIA JAMES, Chairperson; MICHAEL C. NELSON, ROBERT JACKSON, MARIA del CARMEN ARROYO; Committee on Sanitation and Solid Waste Management; December 19, 2013.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1162-A:)

**THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to commercial organic waste.

Given under my hand and seal this 19th day of December, 2013 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

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 Sanitation and Solid Waste Management and had been favorably reported for adoption.

Report for Res. No. 2087

Report of the Committee on Sanitation and Solid Waste Management in favor of approving, a Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1162-A.

The Committee on Sanitation and Solid Waste Management, to which the annexed resolution was referred on December 19, 2013, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int No. 1160-A printed in these Minutes)

Accordingly, this Committee recommends its adoption.

(For text of the preconsidered resolution, please see the Introduction and Reading of Bills section printed in these Minutes)

LETITIA JAMES, Chairperson; MICHAEL C. NELSON, ROBERT JACKSON, MARIA del CARMEN ARROYO; Committee on Sanitation and Solid Waste Management; December 19, 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 Small Business

Report for Int. No. 1213-A

Report of the Committee on Small Business 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 replacing certain fines with opportunities to cure.

The Committee on Small Business, to which the annexed amended proposed local law was referred on December 10, 2013 (Minutes, page 5226), respectfully

REPORTS:

INTRODUCTION

Today, the Committee on Small Business, chaired by Council Member Diana Reyna, will vote on Proposed Int. No. 1213-A. This bill would codify the recommendations of the Mayor's Office of Operations' report entitled "Cure Period Review," which was prepared pursuant to Local Law 35 of 2013.

BACKGROUND

Burdensome regulations and high regulatory compliance costs are commonly cited as among the biggest difficulties facing small businesses. According to the National Federation of Independent Businesses' most recent survey, 21% of small businesses list "government requirements and red tape" as their single most important problem – a larger proportion than list any other difficulty, including sales.¹

The Council has been working to address this problem. Local Law 45 of 2009 created the Regulatory Review Panel ("the Panel") to review the City's regulatory environment for small businesses and to recommend improvements that would make it easier to open and run a business in New York City by minimizing costs and regulatory burdens. The Panel was tasked with making recommendations to improve the efficiency of the City's laws and procedures.

The Panel engaged in outreach in all five boroughs, and received input from dozens of regulated entities and other stakeholders. The Panel issued its report in December 2009.² Since that time, many of its recommendations have been implemented successfully.³ These initiatives share a common purpose with the Panel: ensuring that the City is regulating in a smart, effective way that minimizes unnecessary burdens and maximizes constructive participation by regulated entities.

Among the Panel's recommendations was ensuring compliance with agency rules through means other than issuing a fine for a first violation for those violations that do not pose an immediate threat to public health, safety, or welfare. Adopting this strategy was anticipated to "save[] businesses time and money, allowing them to focus on business rather than deal with government. It [would] also foster[] a productive relationship between small business owners and City agencies..."⁴ The Council acted on this recommendation by passing Local Law 35 of 2013, which required seven agencies to report which of their violations offer no cure period or other opportunity for ameliorative action, and to recommend to the Council and the Mayor whether such an opportunity should be provided for any such violations. The Mayor's Office of Operations led the effort to put together the report required by Local Law 35. After its review of 2,986 infractions issued by the seven applicable agencies, the Mayor's Office of Operations issued the Cure Period Report on September 23, 2013. The Report identified 83 infractions, which were cumulatively cited 166,769 times in Fiscal Year 2013, which were good candidates for a cure period for a first offense. The bill being considered today would codify these recommendations.

ANALYSIS OF PROPOSED INT. NO. 1213-A

The legislation would make first violations of certain infractions curable prior to being fined. The bill covers a number of violations that are enforced by the Departments of Consumer Affairs, Environmental Protection, and Sanitation.⁵

Violations that will not require payment of a fine for a first offense, if the violating individual shows that the violations have been cured are primarily signage violations enforced by the Department of Consumer Affairs. Cures of these violations would be permitted to be submitted to the Department electronically or in person within thirty days of the notice of violation being given out, or prior to the tribunal hearing date on such notice, whichever is earlier. A small number of air and noise code provisions enforced by the Department of Environmental Protection, are given cure periods for first violations as well. The bill includes a correction of an error in a law enforced by the Department of Environmental Protection that does not currently allow for no fine to be given if the violation was cured. The final violation included in the bill is a signage violation enforced by the Department of Sanitation.

Department of Consumer Affairs violations that would receive a cure period are: failing to display signage providing equal prices for equal services regardless of the gender of the customer; failing to post refund policies; failing to post contact information for the Department of Consumer Affairs if a customer has a complaint; failing to display signage differentiating between second hand goods; failing to adequately disclose parking rates, or a parking garage failing to disclose that it is full, state its maximum capacity or business hours, have separate entrances and exits with illuminated signs, or ensure that all signs have equally sized letters and numbers; failing to post an adequate description of a rain check policy; a sidewalk café failing to post the number of tables and chairs licensed; failing to post the departure time and destination on certain private busses; failing to make certain disclosure relating to the identity, qualifications, fees and services provided by an income tax preparer; failing to post a list of limitations on credit card usage in certain places; stores with weights and measures for customer use failing to note that customers may reweigh items; failing to display signage outlining the rights of beverage container redeemers; failing to include English in a label required by the Department of Consumer Affairs; a laundry failing to distinguish in its advertising between services offered at different prices, or to post certain notices in its premises; failing to display certain signage in electronic or home appliance service dealers; failing to display signage giving disclaimers relating to individuals who provide tenant credit reports; illegally displaying signage disclaiming liability; an amusement arcade failing to post a sign on age restrictions during school hours; a seller of products for the disabled failing to display certain information about the New York City products for the disabled law; and exceeding the maximum size of a stoop line stand.

The bill would take effect six months after its enactment. The rules that the Department of Consumer Affairs will be required to promulgate would be required to be completed by June 30, 2014.

CHANGES TO PROPOSED INT. NO. 1213-A SINCE PRIOR HEARING

The changes made to Proposed Int. No. 1213-A since it was previously heard on December 12 include:

- The deletion of the changes to the Department of Sanitation's recycling enforcement program
- The addition of the violation for businesses posting a sign stating the identity of their trade waste removal business as a violation that may be cured to avoid the imposition of a fine
- The clarification that determinations of the Department of Consumer Affairs with respect to whether a violation has been cured may be appealed to the Department's tribunal, but that a violation being cured may not be brought up at a tribunal hearing if it has not previously been raised to the Department or a settlement officer of the Department
- The deletion of a cure period for signage violations relating to immigration service providers
- The deletion of a cure period for any provisions relating to water meters
- The modification of the fine structure of certain air circulator noise code provisions from one in which the initial violation fine is zero to one in which the violation payment is reduced to zero if the violation is cured
- The correction of a statutory error in an existing section enforced by the Department of Environmental Protection that prohibited to imposition of no fine if the violation was cured, in which a cure period program is already in place
- Various technical changes

¹ National Federation of Independent Businesses, "NFIB Small Business Trends," February 2013, available at <http://www.nfib.com/Portals/0/PDF/sbet/sbet201302.pdf>.

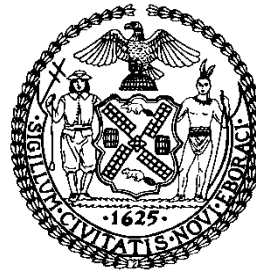
² The report is available at http://www.nyc.gov/html/nycrules/downloads/pdf/regulatory_review_panel_report.pdf.

³ For example, Local Law 33 of 2013 required standardized customer service training for agency inspectors, Local Law 34 of 2013 created agency liaisons to communicate regularly with chambers of commerce and other industry representatives, Local Law 18 of 2010 required the creation of the Business Owner's Bill of Rights, Local Law 46 of 2010 required review of all rules by the Mayor's Office of Operations to ensure that the proposed rule is easy to understand and is drafted in a way that minimizes compliance costs, and the NYC Rules website was created by Executive Order 133 of 2010.

⁴ Final Report of the Regulatory Review Panel, page 24.

⁵ The report did not include any additional cure periods beyond those already in effect at the Fire Department, Department of Buildings and Department of Transportation. The report recommended a cure period for four Department of Health and Mental Hygiene infractions, which are expected to be completed by amendments to the Health Code.

(The following is the text of the Fiscal Impact Statement for Int. No. 1213-A:)



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

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

FISCAL IMPACT STATEMENT

INTRO. NO: 1213-A

**COMMITTEE:
Small Business**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to replacing certain fines with warnings or opportunities to cure.

SPONSOR(S): Reyna, Brewer, Chin, Dickens, Eugene, King, Koo, Mendez, Rose, Wills, Gennaro and Vallone, Jr.

SUMMARY OF LEGISLATION: Proposed Intro. 1213-A will amend the New York City Charter to make first violations of certain infractions curable prior to being fined. The bill covers a number of violations that are enforced by the Departments of Consumer Affairs, Environmental Protection, and Sanitation.

Violations that will not require payment of a fine for a first offense, if the violating individual shows that the violations have been cured are primarily signage violations enforced by the Department of Consumer Affairs. A small number of air and noise code provisions enforced by the Department of Environmental Protection, are included as well, as is the correction of an existing error in a law enforced by the Department of Environmental Protection that does not currently allow for no fine to be given if the violation was cured. The final violation included in the bill is a signage violation enforced by the Department of Sanitation.

Department of Consumer Affairs violations that would receive a cure period are: failing to display signage providing equal prices for equal services regardless of the gender of the customer; failing to post refund policies; failing to post contact information for the Department of Consumer Affairs if a customer has a complaint; failing to display signage differentiating between second hand goods; failing to adequately disclose parking rates, or a parking garage failing to disclose that it is full, state its maximum capacity or business hours, have separate entrances and exits with illuminated signs, or ensure that all signs have equally sized letters and numbers; failing to post an adequate description of a rain check policy; a sidewalk café failing to post the number of tables and chairs licensed; failing to post the departure time and destination on certain private busses; failing to make certain disclosure relating to the identity, qualifications, fees and services provided by an income tax preparer; failing to post a list of limitations on credit card usage in certain places; stores with weights and measures for customer use failing to note that customers may reweigh items; failing to display signage outlining the rights of beverage container redeemers; failing to include English in a label required by the Department of Consumer Affairs; a laundry failing to distinguish in its advertising between services offered at different prices, or to post certain notices in its premises; failing to display certain signage in electronic or home appliance service dealers; failing to display signage giving disclaimers relating to individuals who provide tenant credit reports; illegally displaying signage disclaiming liability; an amusement arcade failing to post a sign on age restrictions during school hours; a seller of products for the disabled failing to display certain information about the New York City products for the disabled law; and exceeding the maximum size of a stoop line stand.

EFFECTIVE DATE: This local law shall take effect one hundred eighty days following the date of its enactment, provided that section sixteen of this local law shall expire, be deemed repealed, and cease to be of force and effect after such date as the department of consumer affairs has promulgated the rules required such section.

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	-\$1,532,600	-\$1,532,600
Expenditures	\$0	\$0	\$0
Net	\$0	-\$1,532,600	-\$1,532,600

IMPACT ON REVENUES: Proposed Intro. 1213-A would reduce combined total revenue of Department of Sanitation, Department of Consumer Affairs and Department of Environmental Protection by approximately \$1,532,600.

IMPACT ON EXPENDITURES: The legislation would have no impact on expenditures. Handhelds could be a good idea but not necessary for this bill.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Aliya Ali, Legislative Financial Analyst

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on December 10, 2013 as Proposed Intro. 1213 and was referred to the Committee on Small Business. A hearing was held by the Committee on December 12, 2013 and the bill was laid over. An amended version of the legislation, Proposed Intro. 1213-A, will be considered by the Committee on December 19, 2013, and upon successful vote of the Committee, Proposed Intro. 1213-A will 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. 1213-A:)

Int. No. 1213-A

By Council Members Reyna, Brewer, Chin, Dickens, Eugene, King, Koo, Mendez, Rose, Wills, Gennaro, Vallone, Jr., Van Bramer, Greenfield and Jackson.

A Local Law to amend the administrative code of the city of New York, in relation to replacing certain fines with opportunities to cure.

Be it enacted by the Council as follows:

Section 1. Paragraph (i) of subdivision d of section 16-116 of the administrative code of the city of New York, as amended by local law number 42 for the year 1996, is amended to read as follows:

(i) Except as provided in paragraph (ii) of this subdivision, violation of any of the provisions of this section or any rules promulgated pursuant thereto shall be punishable by a civil penalty of not less than fifty nor more than one hundred dollars, *provided that a first-time violation of subdivision (b) of this section or any rules promulgated thereto by any owner, lessee or person in control of a commercial establishment shall be mitigated to zero dollars if, on or before the initial return date stated on the notice of violation, such owner, lessee or person submits proof of having cured the violation at the hearing of such notice of violation.* Any notice of violation, appearance ticket or summons issued for a violation of this section shall be returnable before the environmental control board which shall impose the penalty herein provided.

§ 2. Section 20-275 of the administrative code of the city of New York is amended to read as follows:

§ 20-275. Violation. *a.* Any person who shall violate any of the provisions of this subchapter or any rule or regulation issued thereunder shall be guilty of a class A misdemeanor and upon the first conviction be subject to a fine of at least five hundred dollars and upon any subsequent convictions be subject to a fine of one thousand dollars and/or imprisonment of at least fifteen days.

b. Any person who violates any of the provisions of this subchapter or any rule or regulation issued thereunder shall be subject to a civil penalty of not more than five hundred dollars for each violation; except that a person shall not be subject to such civil penalty for a first-time violation of section 20-270 or 20-271 of this subchapter or any rule or regulation issued thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of section 20-270 or section 20-271 of this subchapter or any rule or regulation issued thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 3. Subchapter 17 of chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-332 to read as follows:

§ 20-332. Violation. Any person who violates any of the provisions of this subchapter or any rule or regulation issued thereunder shall be subject to a civil penalty of not more than five hundred dollars for each violation; except that a person shall not be subject to such civil penalty for a first-time violation of subdivision b of section 20-324 of this subchapter and any rule or regulation issued thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of subdivision b of section 20-324 of this subchapter or any rule or regulation issued thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 4. Subdivision d of section 20-240.1 of the administrative code of the city of New York is amended to read as follows:

d. Any person who violates the provisions of this section or section 20-237 shall be considered to be an unlicensed general vendor or an unlicensed food vendor and shall be subject to the penalty and enforcement provisions of either subchapter twenty-five of chapter two of this title or subchapter two of chapter three of title seventeen of the code, whichever is applicable; *except that a person shall not be subject to the civil penalty described above for a first-time violation of subdivision b of section 20-237 and any rule or regulation issued thereunder, if such person proves to the satisfaction of the department within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that he or she has cured the violation. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof of compliance shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of subdivision b of section 20-327 or any rule or regulation promulgated thereunder. The department shall permit such proof to be submitted to the department electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.*

§ 5. Section 20-728 of the administrative code of the city of New York is amended to read as follows:

§ 20-728. Penalties. Violation of this subchapter or any rule or regulation promulgated thereunder, shall be punishable by payment of a civil penalty in the sum of not less than twenty-five nor more than one hundred dollars for each violation; *except that a person shall not be subject to the civil penalty described above for a first-time violation of any provision of this subchapter or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that he or she has cured the violation. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of any provision of this subchapter or any rule or regulation promulgated thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.*

§ 6. Section 20-743 of the administrative code of the city of New York, as added by local law number 31 for the year 2003, is amended to read as follows:

§ 20-743. Penalties. Any person, partnership, corporation or other business entity who violates any provision of this subchapter or any of the regulations promulgated hereunder shall be liable for a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for the first violation and for each succeeding violation a civil penalty of not less than five hundred dollars nor more than seven hundred fifty dollars; *except that a person, partnership, corporation or other business entity shall not be subject to the civil penalty described above for a first-time violation of subdivision (a) of section 20-740 of this subchapter or any rule*

or regulation promulgated thereunder, if such person, partnership, corporation or other business entity proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person, partnership, corporation or other business entity who has received, for the first time, a notice of violation of subdivision (a) of section 20-740 of this subchapter or any rule or regulation issued thereunder. The department shall permit such proof to be submitted electronically or in person. A person, partnership, corporation or other business entity may seek review, in the department's administrative tribunal, of the determination that the person or entity has not submitted proof of a cure within fifteen days of receiving written notification of such determination.

§ 7. Section 20-748 of the administrative code of the city of New York is amended to read as follows:

§ 20-748. Penalties. Violation of this subchapter, or any regulation promulgated pursuant to it, shall be punishable by payment of a civil penalty not to exceed two hundred fifty dollars; *except that a person shall not be subject to a civil penalty described above for a first-time violation of section 20-746 of this subchapter or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of section 20-746 of this subchapter or any rule or regulation promulgated thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.*

§ 8. Section 20-753 of the administrative code of the city of New York, as added by local law number 32 for the year 1990, is amended to read as follows:

§ 20-753. Penalties. Any person who shall violate the provisions of this subchapter or the regulations promulgated pursuant to this subchapter shall, upon conviction thereof, pay a civil penalty or not less than fifty dollars and not more than two hundred and fifty dollars for the first offense and for each succeeding offense a penalty of not less than one hundred dollars nor more than five hundred dollars for each such violation; *except that a person shall not be subject to the civil penalty described above for a first-time violation of subdivision c of section 20-750 of this subchapter or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of subdivision c of section 20-750 of this subchapter or any rule or regulation issued thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.* For the purposes of this section, if on any single day the current selling price list is not displayed in accordance with this subchapter or the regulations promulgated pursuant to this subchapter, it shall be considered a single violation.

§ 9. Section 20-810 of the administrative code of the city of New York, as added by local law number 2 for the year 2010, is amended to read as follows:

§ 20-810. Violations. A person violating sections 20-808 or 20-809 of this subchapter shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for the first violation; *except that a person shall not be subject to the civil penalty described above for a first-time violation of section 20-809 of this subchapter or any rule or regulation promulgated thereunder, if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of section 20-809 of this subchapter or any rule or regulation promulgated thereunder. The department shall permit such proof to be submitted electronically or in person. A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.*

§ 10. Section 24-165 of the administrative code of the city of New York is amended by adding a new subdivision (g) to read as follows:

(g) *The commissioner may recommend to the board that there shall be no civil penalty imposed for a first violation of this section if, within forty five days of the return date set forth on the notice of violation, the respondent admits liability for the violation and files a certification with the department in a form and manner and containing such information and documentation as shall be prescribed in the department's rules that the work has been performed to permanently correct the violation. If the commissioner accepts such certification of compliance, he or she shall recommend to the board that no civil penalty shall be imposed for the*

violation. Such violation may nevertheless serve as a predicate for purposes of imposing penalties for subsequent violations of this section.

§ 11. Section 24-166 of the administrative code of the city of New York is amended by adding a new subdivision (c) to read as follows:

(c) *The commissioner may recommend to the board that there shall be no civil penalty imposed for a first violation of this section if, within forty five days of the return date set forth on the notice of violation, the respondent admits liability for the violation and files a certification with the department in a form and manner and containing such information and documentation as shall be prescribed in the department's rules that the work has been performed to permanently correct the violation. If the commissioner accepts such certification of compliance, he or she shall recommend to the board that no civil penalty shall be imposed for the violation. Such violation may nevertheless serve as a predicate for purposes of imposing penalties for subsequent violations of this section.*

§ 12. The row in the table of civil penalties following subparagraph (i) of paragraph 5 of subdivision (b) of section 24-178 of the administrative code of the city of New York that begins 24-165 is amended, and a new row immediately following such row is added, to read as follows:

24-165	As Per Schedule E, F, or G, whichever is applicable	[As Per Schedule E, F, or G, whichever is applicable] 0
24-166	875	0

§ 13. Section 24-227 of the administrative code of the city of New York is amended by adding a new subdivision (d) to read as follows:

(d) *The commissioner may recommend to the board that there shall be no civil penalty imposed for a first violation of this section if, within forty five days of the return date set forth on the notice of violation, the respondent admits liability for the violation and files a certification with the department in a form and manner and containing such information and documentation as shall be prescribed in the department's rules that (i) permanent improvements or modifications have been made to the establishment, including but not limited to the installation of appropriate sound insulation, isolators, suspension mounting and/or sound mitigation devices or materials; and (ii) appropriate sound measurements taken in accordance with the department's rules substantiate that the establishment is in full compliance with the sound levels set forth in this section. If the commissioner accepts such certification of compliance, he or she shall recommend to the board that no civil penalty shall be imposed for the violation. Such violation may nevertheless serve as a predicate for purposes of imposing penalties for subsequent violations of this section.*

§ 14. The row in table I following paragraph (5) of section 24-257 of the administrative code of the city of New York that begins 24-227 is amended to read as follows:

24-227	875	[275] 0	1,750	440	2,625	660
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§ 15. The row in table I following paragraph (5) of section 24-257 of the administrative code of the city of New York that begins 24-231(a) is amended to read as follows:

24-231(a)	8,000	[2,000] 0	16,000	4,000	24,000	6,000
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§ 16. By June 30, 2014, the department of consumer affairs shall promulgate rules establishing opportunities to cure the first violation of the following signage mandates:

- 1) requiring the posting of refund policies;
- 2) requiring the posting of a sign stating that individuals may complain to the department of consumer affairs about a business licensed by such department;
- 3) prohibiting signs stating that a business is not liable for such business's negligence if such a statement is invalid under law;
- 4) requiring that parking lots and garages post a sign stating:
 - a) the business hours of such lot or garage;
 - b) the licensed capacity of such lot or garage;
 - c) such lot or garage is at full capacity for car or bicycle parking; and
 - d) minimum number of bicycle parking spaces;
- 5) requiring that parking lots and garages have separate entrances and exits, with the main entrance and exit clearly designated with illuminated signs marked "entrance" and "exit";
- 6) requiring that all required signage is illuminated, clearly visible, and readable;
- 7) requiring that those lots and garages with waivers under section 20-327.1 of the administrative code post a sign with respect to bike parking;
- 8) requiring that auxiliary signs of parking lots and garages contain equally sized letters and numbers;
- 9) requiring that businesses that accept credit cards post a list of limitations that such business put on credit card usage at or near the entrance of each such business, and in all advertising indicating that credit cards are accepted;
- 10) requiring that electronic or home appliance service dealers include a notice in the department or area where electronic and home appliances are accepted

for repair stating that customers are entitled to written estimates for repairs and other customer rights, and that the regulations of the department of consumer affairs relating to television, radio and audio servicing are available for review from the service dealer upon request;

11) requiring a tax preparer to display a sign:

- a) identifying him or herself, including his or her address, telephone number, and qualifications;
- b) stating that both the preparer and taxpayer must sign every tax return;
- c) stating how his or her fees are calculated;
- d) stating that he or she or his or her agency will not represent the taxpayer in an audit, if true; and
- e) stating that he or she is not licensed by the state board of public accounting or the New York state bar, or both, if true;

12) requiring dealers of products for the disabled to post a sign summarizing any provisions of the New York city products for the disabled law;

13) requiring any bus to include a posted sign on the windshield and near the entrance door of such bus that designates the departure time and destination of such bus;

14) requiring laundries:

- a) to distinguish in their advertising between services being offered at different prices;
- b) to post an out-of-order sign on non-functioning machines on such laundry's premises;
- c) to post a notice that complaints and claims for refunds may be made to a certain person or persons; and
- d) to post any sign in both english and spanish, if applicable;

15) requiring sidewalk cafes to post a sign stating the maximum number of tables and chairs licensed for such sidewalk café, and prohibiting other signage at a sidewalk café except for signage meeting certain specifications;

16) requiring motor vehicle rental businesses to post a notice of the department of consumer protection's consumer protection law;

17) requiring any labeling declaration to be written in the english language;

18) requiring that amusement arcades and gaming cafes post a sign describing age restrictions during certain hours of operation; and

19) requiring signage at businesses that sell beverages for off-premises consumption in beverage containers that are covered by title ten or article twenty-seven of the environmental conservation law of the state of New York to be placed within a certain distance of cash registers or to be visible to consumers from any specific vantage point; and

20) requiring stores with weighing and measuring devices for customer use to post a sign informing customers that they may reweigh products using such weighing or measuring device or devices.

The rules promulgated pursuant to this section shall include language to the effect that a person shall not be subject to a civil penalty for the first-time violation of any signage mandate described in this section if such person proves to the satisfaction of the department, within thirty days of the issuance of the notice of violation and prior to the commencement of an adjudication of the violation, that the violation has been cured. The submission of proof of a cure shall be deemed an admission of liability for all purposes. The option of presenting proof that the violation has been cured shall be offered as part of any settlement offer made by the department to a person who has received, for the first time, a notice of violation of any signage mandate described in this section. The department shall permit such proof to be submitted electronically or in person. *A person may seek review, in the department's administrative tribunal, of the determination that the person has not submitted proof of a cure within fifteen days of receiving written notification of such determination.*

§ 17. This local law shall take effect one hundred eighty days following the date of its enactment.

DIANA REYNA, Chairperson; LETITIA JAMES, MATHIEU EUGENE, MARGARET S. CHIN, PETER A. KOO, ANDY L. KING; Committee on Small Business, December 19, 2013.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1213-A:)

**THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007**

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to replacing certain fines with warnings or opportunities to cure.

Given under my hand and seal this 19th day of December, 2013 at City Hall in the City of New York.

Michael R. Bloomberg
Mayor

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. 1055-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 requiring the New York City Police Department to report information concerning vehicle collisions in which a driver left the scene of the collision.

The Committee on Transportation, to which the annexed amended proposed local law was referred on June 12, 2013 (Minutes, page 1916), respectfully

REPORTS:

INTRODUCTION

On December 18, 2013, the Committee on Transportation, chaired by Council Member James Vacca, will hold a hearing on Proposed Int. No. 1055-A, a Local Law to amend the Administrative Code of the City of New York, in relation to requiring the New York City Police Department to report information concerning vehicle collisions in which a driver left the scene of the collision. This will be the second hearing on this bill. The first hearing was held on December 4, 2013 at which the Committee heard testimony from traffic safety advocates.

BACKGROUND

After years of decreasing traffic fatalities, New York City has witnessed an increase in the past two years. According to City data, in FY 2012 and FY 2013, there have been 176 and 168 traffic fatalities respectively involving pedestrians and cyclists, an increase from 158 fatalities in FY 2011.¹ When it comes to fatalities involving motorists and passengers, there were 115 in FY 2012 and 93 in FY 2013, up from 78 in FY 2011.²

In 2011, the Council enacted Local Law 12 (LL 12) which required the New York Police Department ("NYPD") to post information on its website related to traffic collisions. The passage of LL 12 was intended to increase transparency about vehicular collisions, and help government agencies, safety advocates, and communities identify areas of the city that are dangerous for pedestrians. As a result of LL 12, the NYPD currently posts monthly citywide and borough-specific information regarding collisions and collision-related fatalities.

Despite efforts to reduce traffic fatalities, "hit and run" collisions continue to kill and injure New Yorkers. According to statistics provided by NYPD, the Collision Investigation Squad investigated 58 "hit and run" cases in 2012, of which 15 resulted in an arrest.³ Numerous media reports and stories have documented instances of "hit and run" crashes across the city. In August 2013, a 5 year-old boy, Kyrillos Gendy, was killed in a hit and run in Staten Island. Kyrillos's mother and sister were also injured in the incident.⁴ In October 2013, a teenager in Woodside, Queens was killed in a "hit and run" collision.⁵ And in September 2013, a 59 year old grand-mother was killed in a "hit and run" crash in the Bronx.⁶

The bill being considered today would require the NYPD to regularly report to the Council on hit and run incidents in the City.

AMENDMENTS

Since the first hearing, several changes have been made to the bill, including requiring the hit-and-run report to be submitted to the Council quarterly instead of biannually, requiring hit-and-run data to be posted on the NYPD's website, and requiring information about the number of hit-and-run cases closed with or without an arrest to be included in the report.

ANALYSIS

Section one of Proposed Int. No. 1055-A amends section 14-153 of title 14 of the Administrative Code of the City of New York by amending subdivision b and adding a new subdivision c. Subdivision b would be amended by adding language making it clear that the provisions of the subdivision apply to the data required by subdivision a of section 14-153. The new subdivision c of section 14-153 would state that for the quarter beginning July 1, 2015, and quarterly thereafter, the NYPD must provide a report, in writing, to the Speaker of the Council regarding the number of traffic-related incidents during the prior quarter that involved at least one vehicle and resulted in critical injury and where the driver of a vehicle involved in such incident left the scene of such incident without reporting, in violation of section six hundred of the Vehicle and Traffic Law. The report would also have to include the number of such incidents the NYPD closed during the prior quarter resulting in an arrest being made for violation of that section of the Vehicle and Traffic Law and the number of such incidents the NYPD closed during the prior quarter without an arrest being made for violation of that provision of the Vehicle and Traffic Law. The data in the report would have to be disaggregated by precinct and the cross streets of the incident and the NYPD would also have to publish the data on its website. Additionally, the NYPD would have to provide to the Speaker of the Council in writing a brief description of what steps were taken to investigate each incident, noting the cross streets of the incident. The new subdivision would also define, for the purposes of the subdivision, "critical injury" as any injury determined to be critical by the emergency medical service personnel responding to the incident.

Section two states that Proposed Int. No. 1055-A would take effect immediately upon its enactment into law.

¹ Mayor's Management Report, September 2013, page 6.

² *Id.*

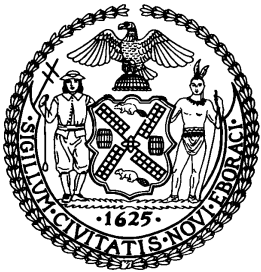
³ Testimony of Inspector Paul Ciorra at City Council Committees on Public Safety and Transportation hearing, September 30, 2013.

⁴ Randy Leonard. Boy, 5, is killed in Hit-and-Run on Staten Island, New York Times, August 10, 2013. Accessed at http://www.nytimes.com/2013/08/11/nyregion/boy-5-is-struck-and-killed-in-staten-island-hit-and-run.html?_r=0 on December 2, 2013.

⁵ Brad Aaron. NYC's Hit-and-Run epidemic claims teenager Luis Bravo in Woodside, October 1, 2013. Accessed at <http://www.streetsblog.org/2013/10/01/nycs-hit-and-run-epidemic-claims-teenager-luis-bravo-in-woodside/> on December 2, 2013.

⁶ Clare Trapasso and Barry Paddock. Queens grandmother killed by a drunk hit-and-run driver, New York Daily News, September 14, 2013. Accessed at <http://www.nydailynews.com/new-york/queens/hit-and-run-driver-kills-queens-granny-article-1.1456300> on December 2, 2013.

(The following is the text of the Fiscal Impact Statement for Int. No. 1055-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: 1055-A
COMMITTEE: Transportation

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring the New York City Police Department to report information concerning vehicle collisions in which a driver left the scene of the collision.

Sponsor: By Council Members Comrie, Koo, Mendez, Barron, Brewer, Cabrera, Chin, Dromm, Eugene, James, Koppell, Koslowitz, Lander, Palma, Rose, Vann, Vacca and Halloran

SUMMARY OF LEGISLATION: This legislation would amend subdivision b of section 14-153 of the administrative code of the city of New York, as added by local law number 12 for the year 2011, and add a new subdivision c to require the New York City Police Department ("NYPD") to submit to the City Council and post online a quarterly report on hit-and-run data, specifically the number of hit-and-run incidents where critical injury occurred and where the driver of a vehicle left the scene without reporting, in violation of section six hundred of the vehicle and traffic law. In addition, this report would include the number of such cases closed in the previous quarter, disaggregated by whether an arrest was made or not. The legislation would require that the above described data be disaggregated by police precinct and by cross street with the first report submitted on or before the quarter beginning July 1, 2015. Lastly, the legislation would require the NYPD to provide to the City Council a brief description of what steps were taken to investigate all hit-and-run incidents where critical injury occurred.

EFFECTIVE DATE: This local law would take effect immediately upon its enactment into law.

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 impact on revenues by the enactment of this legislation.

IMPACT ON EXPENDITURES: Because the Department will use existing resources to implement this local law, it is anticipated that there would be minimal to no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: NYC Council Finance Division

ESTIMATE PREPARED BY: Chima Obichere, Unit Head

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

HISTORY: Introduced as Intro. 1055 by the Council on June 12, 2013 and referred to the Committee on Transportation. A hearing was held and the legislation was laid over by the Committee on December 4, 2013. Intro. 1055 has been amended, and the amended version, Proposed Int. 1055-A, will be considered by the Committee on Transportation on December 18, 2013 and upon a 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. 1055-A:)

Int. No. 1055-A

By Council Members Comrie, Koo, Mendez, Barron, Brewer, Cabrera, Chin, Dromm, Eugene, James, Koppell, Koslowitz, Lander, Palma, Rose, Vann, Vacca, Garodnick, Van Bramer, Weprin, Gennaro, Vallone, Jr., Crowley, Greenfield, Jackson and Halloran.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the New York City Police Department to report information concerning vehicle collisions in which a driver left the scene of the collision.

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 14-153 of the administrative code of the city of New York, as added by local law number 12 for the year 2011, is amended and a new subdivision c is added to read as follows:

b. The data required pursuant to *subdivision a* of this section shall be published on the department's website for the whole city and disaggregated by borough and police precinct, and shall be searchable by intersection, except for the data required under paragraph one of subdivision a, which shall be disaggregated by borough and police precinct only. Such data shall be updated at least once every month.

c. *For the quarter beginning July first, two thousand fifteen and quarterly thereafter, the department shall provide a report, in writing, to the speaker of the council regarding: (1) the number of traffic-related incidents during the prior quarter that involved at least one vehicle and resulted in critical injury and where the driver of a vehicle involved in such incident left the scene of such incident without reporting, in violation of section six hundred of the vehicle and traffic law; (2) the number of such incidents the department closed during the prior quarter resulting in an arrest being made for violation of such section of the vehicle and traffic law; and (3) the number of such incidents the department closed during the prior quarter without an arrest being made for violation of such provision of the vehicle and traffic law. The data in such report shall be disaggregated by precinct and the cross streets of the incident and the department shall also publish such data on the department's website. Additionally, the department shall provide to the speaker of the council in writing a brief description of what steps were taken to investigate each such incident, noting the cross streets of the incident. For purposes of this subdivision, "critical injury" shall mean any injury determined to be critical by the emergency medical service personnel responding to any such incident.*

§ 2. This local law shall take effect immediately upon enactment.

JAMES VACCA, Chairperson; GALE A. BREWER, G. OLIVER KOPPELL, DANIEL R. GARODNICK, DARLENE MEALY, YDANIS A. RODRIGUEZ, PETER A. KOO, DEBORAH L. ROSE, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, VINCENT M. IGNIZIO; Committee on Transportation, December 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 Veterans

Report for Int. No. 1159-A

Report of the Committee on Veterans 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 opportunities for veteran-owned business enterprises in city procurement.

The Committee on Veterans, to which the annexed amended proposed local law was referred on September 12, 2013 (Minutes, page 3461), respectfully

REPORTS:

INTRODUCTION

On December 16, 2013, the Committee on Veterans, chaired by Council Member Mathieu Eugene, held hearing on Proposed Int. No. 1159-A, a Local Law to amend the administrative code of the city of New York, in relation to opportunities for veteran-owned business enterprises in city procurement. The first hearing was held on December 6, 2013. Amendments were made to this legislation following that hearing. At the second hearing, the Committee voted 6-0 in favor of the legislation.

BACKGROUND

Veterans who have served our country since September 2001 are experiencing higher rates of unemployment than previously seen either among older veterans or the general population, even as the economy has improved following the recent recession.¹ Between January 2012 and October 2013, the unemployment rate for recent veterans rose from 9.1 to 10 percent.² During the same period, the general civilian unemployment rate fell from 8.3 to 7.3 percent.³

Entrepreneurship offers veterans a path to take charge of their career and economic future by harnessing leadership skills and discipline learned in the military to help build their own business. In fact, studies indicate veteran start-ups have a higher rate of success than businesses launched by those in the general civilian population.⁴ Nearly one in ten businesses in the United States (U.S.) are owned by veterans.⁵ These 2.4 million veteran-owned businesses employ almost six million Americans and generate over \$1.2 trillion in receipts annually.⁶ New York State is home to 127,156 veteran-owned businesses, which employ 315,148 workers and generate receipts of more than \$70 billion.⁷ By 2016, more than one million service members will have left the U.S. military,⁸ creating a new generation of veterans that may wish to pursue careers as small business owners.

When compared to businesses owned by members of the general public, governments more often serve as essential customers and clients for veteran-owned businesses. While the federal government is a “major customer” – defined by the U.S. Small Business Administration as one accounting for ten percent or more in sales – for 1.7 percent of non-veteran owned businesses in the U.S., it is a major customer for 2.9 percent of veteran-owned businesses.⁹ Further, nearly six percent of veteran-owned firms have state or local governments as major customers.¹⁰

The federal government requires that at least three percent of all contracting dollars spent by each federal agency go to service-disabled veteran-owned small businesses (SDVOSB).¹¹ In 2010, federal contracts to SDVOSBs totaled \$10.8 billion.¹² The U.S. General Services Administration’s Office of Small Business Utilization provides SDVOSBs with training, assistance with navigating the federal procurement process, and conducts outreach to educate SDVOSBs on procurement opportunities.¹³

Seventeen states currently have procurement preference programs for veteran-owned businesses in place.¹⁴ Five states require at least three percent of contract spending to go to veteran-owned businesses.¹⁵ Arkansas requires all state agencies to attempt to spend at least five percent of construction program spending as well as the purchase of goods and services with firms owned by veterans that at least thirty-percent disabled.¹⁶ In California, state departments must attempt to award three percent of the total value of contracts to firms with at least 51 percent ownership by a veteran or veterans with at least a ten percent disability rating.¹⁷ Illinois law sets a goal that no less than three percent of the total dollar amount of state contracts must go to businesses owned and controlled by veterans.¹⁸ In April 2013, Indiana enacted a requirement that the state increase contracting opportunities for veteran-owned businesses, with a goal of awarding at least three percent of state contracts to such

businesses.¹⁹ Maryland awards businesses owned by veterans or disabled veterans preference points when bidding on contracts, in addition to requiring state agencies to attempt to award at least .5 percent of the value of procurement contracts to veteran-owned small businesses.²⁰ The remaining twelve states with veteran procurement programs – Alaska, Louisiana, Minnesota, Michigan, Missouri, Nevada, New Mexico, Pennsylvania, Texas, Washington, West Virginia, and Wisconsin – offer some lesser form of preference to veteran-owned business in awarding contracts.²¹

Proponents of procurement programs for veterans argue that offering veteran-owned businesses better opportunities for securing government contracts can help decrease the veteran unemployment rate, in addition to allowing governments to show appreciation for veterans’ service.²² Veterans’ advocates note that procurement opportunities at the state and local level may be more effective than the federal veteran procurement preference program as this would allow more veterans to focus on pursuing business opportunities in their home states²³

ANALYSIS

Int. No. 1159-A

Section one of Int. No. 1159-A amends title six of the Administrative Code by adding a new section 6-138. New section 6-138 would relate to opportunities for veteran-owned business enterprises in City procurement. Such section 6-138 would require the Commissioner of Small Business Services, in conjunction with the City’s chief procurement officer, to analyze veteran-owned businesses and their opportunities in City procurement, and determine if there is a need for a citywide program to promote procurement opportunities for such businesses. By December 1, 2014, the Commissioner would be required to submit a report to the Council on such analysis, including their basis for determining the need for a program to promote procurement opportunities for veteran-owned businesses. The new section would require that, if the Commissioner determines a need for such a program, that the report to the Council also contain recommendations on measures to enhance procurement opportunities for veterans, including but not limited to, outreach and notification of contract opportunities; certification; recommendations regarding the establishment of procurement participation goals; and the tracking of and reporting on the utilization of veteran-owned businesses.

Section two of the bill provides that the local law would take effect immediately.

¹ R. Jason Faberman and Taft Foster, Federal Reserve Bank of Chicago, *Unemployment among recent veterans during the Great Recession 1* (2013), available at http://www.chicagofed.org/digital_assets/publications/economic_perspectives/2013/1Q2013_part1_faberman_foster.pdf.

² Press Release, U.S. Bureau of Labor Statistics, *The Employment Situation – January 2013* (Feb. 1, 2013), available at <http://www.bls.gov/webapps/legacy/cpsatab5.htm>; Press Release, U.S. Bureau of Labor Statistics, *The Employment Situation – October 2013* (Nov. 8, 2013), available at <http://www.bls.gov/news.release/empsit.htm>.

³ *Id.*

⁴ Carson Beesley, United States Small Business Administration, *From Military Service to Entrepreneur; Tools for the Veteran-Owned Small Business*, Jan. 9, 2013, available at <http://www.sba.gov/community/blogs/community-blogs/small-business-matters/military-service-entrepreneur-tools-veteran-o>.

⁵ Interagency Task Force on Veterans Small Business Development, *Heroes on the Home Front: Supporting Veteran Success as Small Business Owners* 4 (Nov. 2012), available at <http://www.sba.gov/sites/default/files/FY2012-Final%20Veterans%20TF%20Report%20to%20President.pdf>.

⁶ Interagency Task Force on Veterans Small Business Development, *supra* note 5 at 4.

⁷ U.S. Small Business Administration, *Veteran-owned Businesses and their Owners – Data from the Census Bureau’s Survey of Business Owners* 80 (Mar. 2012), available at <http://www.sba.gov/sites/default/files/393tot.pdf>.

⁸ Interagency Task Force on Veterans Small Business Development, *Report to the President – Empowering Veterans Through Entrepreneurship* 3 (Nov. 2011), available at <http://www.sba.gov/sites/default/files/FY2012-Final%20Veterans%20TF%20Report%20to%20President.pdf>.

⁹ U.S. Small Business Administration – Office of Advocacy, *Data from the Census Bureau’s Survey of Business Owners* (Mar. 2012), at 49, available at <http://www.sba.gov/sites/default/files/393tot.pdf>.

¹⁰ *Id.*

¹¹ President George W. Bush, Exec. Order 13360, Oct. 20, 2004, available at <http://www.gpo.gov/fdsys/pkg/FR-2004-10-26/pdf/04-24098.pdf>.

¹² Tamara Audi, *More States Decide to ‘Buy Veteran’*, Wall Street Journal, Jan. 13, 2012, available at <http://online.wsj.com/news/articles/SB10001424052970203721704577156851909194224>.

¹³ U.S. General Services Administration, *For Service-Disabled Veteran-Owned Small Businesses*, <http://www.gsa.gov/portal/category/25553> (last accessed Dec. 2, 2013).

¹⁴ National Veteran-Owned Business Association, *Veteran-Owned Business State Laws*, <http://www.navoba.com/StateTracker.aspx> (last accessed Dec. 2, 2013).

¹⁵ *Id.*

¹⁶ Arkansas Code § 19-11-106.

¹⁷ California Military and Veterans Code, D. 4, Ch. 6; California Department of General Services, *Disabled Veteran Business Enterprise Certification Eligibility Requirements & Benefits*, <http://www.dgs.ca.gov/pd/Programs/OSDS/DVBEEligibilityBenefits.aspx> (last accessed Nov. 20, 2013).

¹⁸ Illinois Compiled Statutes § 500/45-57.

¹⁹ Indiana Code § 5-22-14-11.

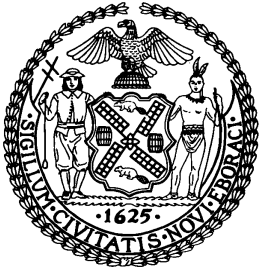
²⁰ Maryland Code §§ 14-206 and 14-602.

²¹ National Veteran-Owned Business Association, *supra* note 14.

²² Audi, *supra* note 12.

²³ *Id.*

(The following is the text of the Fiscal Impact Statement for Int. No. 1159-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: 1159-A
COMMITTEE:
Veterans

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to opportunities for veteran-owned business enterprises in city procurement.

SPONSOR(S): By Council Members Reyna, Brewer, Chin, Dickens, Eugene, Gentile, Jackson, James, King, Koo, Koppell, Mendez, Palma, Richards, Vann, Wills and Rodriguez

SUMMARY OF LEGISLATION: Proposed Intro. 1159-A would require the commissioner of the department of small business services, in consultation with the city chief procurement officer, to analyze opportunities for veteran owned business enterprises in city procurements and, by December 1, 2014, determine the need for a citywide program to promote opportunities in city procurement for veterans.

EFFECTIVE DATE: This local law will take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: N/A

FISCAL IMPACT STATEMENT:

	Effective FY 14	FY Succeeding Effective FY 15	Full Fiscal Impact FY 14
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: This legislation would have no impact on expenditures since existing resources would be used to determine the need for a citywide program to promote opportunities in city procurement for veterans.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Finance Division

ESTIMATE PREPARED BY: John Russell, Principal Financial Legislative Analyst

ESTIMATE REVIEWED BY: Latonia McKinney, Deputy Director and Tanisha Edwards, Finance Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 12, 2013 as Int. 1159 and referred to the Committee on Veterans. On December 12, 2013, the Committees on Veterans and Small Business held a joint hearing on this legislation and the bill was laid over. An amended version of the legislation, Proposed Intro. 1159-A, will be considered by the Committee on Veterans on December 15, 2013, and upon successful vote of the Committee, Proposed Intro. 1159-A will 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. 1159-A:)

Int. No. 1159-A

By Council Members Reyna, Brewer, Chin, Dickens, Eugene, Gentile, Jackson, James, King, Koo, Koppell, Mendez, Palma, Richards, Vann, Wills, Rodriguez, Greenfield, Gennaro and Van Bramer.

A Local Law to amend the administrative code of the city of New York, in relation to opportunities for veteran-owned business enterprises in city procurement.

Be it enacted by the Council as follows:

Section 1. Title 6 of the administrative code of the city of New York is amended by adding a new section 6-138 to read as follows:

§ 6-138. *Participation by veteran owned business enterprises in city procurement.*

The commissioner of the department of small business services, in consultation with the city chief procurement officer, shall analyze veteran owned business enterprises and opportunities for such business enterprises in city procurements and shall, by December 1, 2014, determine the need for a citywide program to promote opportunities in city procurement for veterans. At such time, the commissioner shall submit to the council a report on such analysis including the basis for such determination. If the commissioner determines that there is a need for such a citywide program, such report shall also contain recommendations concerning measures to enhance the opportunities of such businesses with respect to city procurement, which shall include but need not be limited to, outreach and notification of contract opportunities, certification of veteran owned business enterprises, recommendations regarding the establishment of participation goals, and tracking and reporting the utilization of such business enterprises.

§2. This local law shall take effect immediately.

MATHIEU EUGENE, Chairperson; LEWIS A. FIDLER, FERNANDO CABRERA, DANIEL DROMM, DAVID G. GREENFIELD; DONOVAN J. RICHARDS; Committee on Veterans, December 16, 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

Report for Int. No. 635-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 requiring online publication of commuter van information.

The Committee on Transportation, to which the annexed amended proposed local law was referred on July 28, 2011 (Minutes, page 3799), and originally before the Council on December 10, 2013, (Minutes, page 5184) respectfully

REPORTS:

INTRODUCTION

On December 9, 2013, the Committee on Transportation, chaired by Council Member James Vacca, will hold a hearing on Proposed Int. No. 635-A, a Local Law to amend the Administrative Code of the City of New York, in relation to requiring online publication of commuter van information. This will be the second hearing on this bill. The first hearing was held on October 31, 2013 at which the Committee heard testimony from representatives of the New York City Taxi and Limousine Commission (TLC) as well as other interested stakeholders and community members.

BACKGROUND

Commuter vans serve the transportation needs of many communities, particularly those underserved by other mass transportation options.¹ They are also one of the City's most flexible transportation services, able to adapt to serve customers during emergencies such as hurricanes and transit strikes.² However, some community groups have complained about various commuter van-related issues, including passengers littering while waiting to be picked up, traffic congestion, and double parking.³ Community leaders have also claimed that the City insufficiently consults with community boards regarding commuter van service applications.⁴

The Administrative Code defines a commuter van as “having a seating capacity of at least nine passengers but not more than twenty passengers” and “carrying passengers for hire in the City duly licensed as a commuter van by [TLC] and not permitted to accept hails from prospective passengers in the street.”⁵ It defines a commuter van service as an entity that “provides a transportation service through the use of one or more commuter vans on a prearranged regular daily basis, over non-specified or irregular routes, between a zone in a residential neighborhood and a location which shall be a work related central location, a mass transit or mass transportation facility, a shopping center, recreational facility or airport.”⁶

The Code requires commuter van services to gain approval from TLC in order to operate legally in the City.⁷ Before TLC can approve an application to operate a commuter van service, the Department of Transportation (DOT) must determine that the service proposed “will be required by the present or future public convenience and necessity” and must “specify the geographic area where service is authorized and the number of commuter vans authorized to be used in providing such service.”⁸ DOT must notify all affected Council Members and community boards of the application for the purposes of obtaining their comment.⁹

TLC displays on its website a map of approved commuter van services and their authorized geographic service areas, updated as of August 2, 2010.¹⁰ It lists 42 approved commuter van services.¹¹ Proposed Int. No. 635-A would make this information more complete by requiring TLC’s website to be updated with any new commuter van service’s designated geographic service area and the approved number of commuter vans the service may use each time a new service is approved.

AMENDMENTS

Since the first hearing on Proposed Int. No. 635-A, several amendments to the bill have been made, including the removal of language that would have added affected community boards as recipients of determinations of approval of applications for authorization to operate a commuter van service from TLC, dropping the removal of language relating to the ability of the Council to “call up” such determinations for review, and the removal of language that would have required the Department of City Planning (DCP) to submit reports reflecting the results of any future commuter van service policy studies. Language was added that would require TLC to post on its website links to all City laws and rules governing the operation of commuter vans.

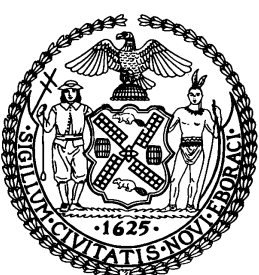
ANALYSIS

Section one of Proposed Int. No. 635-A would amend section 19-504.2 of the Administrative Code by adding a new subdivision l. New subdivision l would require TLC to post on its website links to all New York City laws and rules governing the operation of commuter vans. It would also require that, not more than three days after issuing an authorization to operate a commuter van service, TLC post on its website the geographic area where such service is authorized and the number of commuter vans authorized to be used in providing such service.

Section two of Proposed Int. No. 635-A **states that the** local law would take effect ninety days after its enactment.

¹ Remarks by Mayor Bloomberg at a Public Hearing on Local Laws, 10/9/2007 http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?ageID=mayor_press_release&catID=1194&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2007b%2Fpr360-07.html&cc=unused1978&rc=1194&ndi=1
² <http://blogs.wsj.com/metropolis/2012/10/29/with-mass-transit-missing-dollar-vans-fill-the-gap/> and http://www.nyc.gov/portal/site/nycgov/menuitem.c0935b9a57bb4ef3daf2f1c701c789a0/index.jsp?ageID=mayor_press_release&catID=1194&doc_name=http%3A%2F%2Fwww.nyc.gov%2Fhtml%2Fom%2Fhtml%2F2005b%2Fpr462-05.html&cc=unused1978&rc=1194&ndi=1
³ http://www.foresthillstimes.com/view/full_story/7167066/article-Commuter-van-industry-growing-in-Maspeth
⁴ *Id.*
⁵ Section 19-502 of the Administrative Code of the City of New York
⁶ *Id.*
⁷ Section 19-504.2 of the Administrative Code of the City of New York
⁸ *Id.*
⁹ *Id.*
¹⁰ http://www.nyc.gov/html/tlc/downloads/pdf/commuter_van_rt_0822010.pdf accessed on 10/25/2013
¹¹ http://www.nyc.gov/html/tlc/downloads/pdf/commuter_van_rt_legend.pdf accessed on 10/25/2013

(The following is the text of the Fiscal Impact Statement for Int. No. 635-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: 635-A
 COMMITTEE: Transportation**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring online publication of commuter van information.

Sponsor: By Council Members Crowley, Fidler, Gentile, James, Koppell, Koslowitz, Mealy, Rose, Rivera, Vallone, Gonzalez, Nelson, Mark-Viverito, Rodriguez, Ulrich and Greenfield

SUMMARY OF LEGISLATION: This legislation would amend section 19-504.2 of the Administrative Code of the city of New York by adding a new subdivision l to require greater transparency as it relates to commuter vans. The bill would require the Taxi and Limousine Commission (“TLC”) to post on its website links to all New York City laws and rules that relate to the operation of commuter vans; within three days after authorizing a commuter van service, the geographic area where such commuter van service is authorized; and the number of commuter vans so authorized to provide the service.

EFFECTIVE DATE: This local law would take effect ninety day after its enactment into law.

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 impact on revenues by the enactment of this legislation.

IMPACT ON EXPENDITURES: Because the Commission will use existing resources to implement this local law, it is anticipated that there would be minimal to no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: NYC Council Finance Division
 Mayor’s Office of Legislative Affairs

ESTIMATE PREPARED BY: Chima Obichere, Unit Head

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

HISTORY: Introduced as Intro. 635 by the Council on July 28, 2011 and referred to the Committee on Transportation. A hearing was held and the legislation was laid over by the Committee on October 31, 2013. Intro. 635 has been amended, and the amended version, Proposed Int. 635-A, will be considered by the Committee on Transportation on December 9, 2013 and upon a 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. 635-A:)

Int. No. 635-A

By Council Members Crowley, Fidler, Gentile, James, Koppell, Koslowitz, Mealy, Rose, Rivera, Vallone, Jr., Gonzalez, Nelson, Mark-Viverito, Rodriguez, Van Bramer, Vacca, Dromm, Greenfield, Gennaro, Jackson and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to requiring online publication of commuter van information.

Be it enacted by the Council as follows:

Section 1. Section 19-504.2 of the administrative code of the city of New York is amended by adding a new subdivision l to read as follows:

l. *The commission shall post on its website links to all New York city laws and rules governing the operation of commuter vans. Not more than three days after*

issuing an authorization to operate a commuter van service, the commission shall post on its website the geographic area where such service is authorized and the number of commuter vans authorized to be used in providing such service.

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

JAMES VACCA, Chairperson; GALE A. BREWER, G. OLIVER KOPPELL, DARLENE MEALY, YDANIS A. RODRIGUEZ, DEBORAH L. ROSE, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, VINCENT M. IGNIZIO, ERIC A. ULRICH,; Committee on Transportation, December 9 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. 994 & Res. No. 2105

Report of the Committee on Land Use in favor of approving Application No. C 140063 ZSK submitted by Coney Island Holdings LLC and the New York City Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 131-60 of the Zoning Resolution to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years, on property located at 3052-3078 West 21st Street (Block 7071, Lots 27, 28, 30, 32, 34, 76, 79, 81, 130, 226, 231, and p/o Lot 142, in the Borough of Brooklyn, Community District 13, Council District 47. 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.

The Committee on Land Use, to which the annexed resolution was referred on December 10, 2013 (Minutes, page 5250), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 13

C 140063 ZSK

City Planning Commission decision approving an application submitted by Coney Island Holdings LLC and the New York City Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 131-60 of the Zoning Resolution to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years, on property located at 3052-3078 West 21st Street (Block 7071, Lots 27, 28, 30, 32, 34, 76, 79, 81, 130, 226, 231, and p/o Lot 142; the bed of former Highland View Avenue; and a portion of the bed of former West 22nd Street), in R5 and R7D/C2-4 Districts, within the Special Coney Island District (Coney West Subdistrict, Parcels B and G).

INTENT

This special permit, along with its related actions, would facilitate the development of limited term amphitheater, public open space, and restoration of a historic restaurant, in the Coney Island neighborhood of Brooklyn Community District 13.

PUBLIC HEARING

DATE: December 17, 2013

Witnesses in Favor: Seventeen

Witnesses Against: Seven

SUBCOMMITTEE RECOMMENDATION

DATE: December 18, 2013

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

In Favor: Weprin, Rivera, Jackson, Vann, Garodnick, Lappin, Ignizio

Against: None **Abstain:** None

COMMITTEE ACTION

DATE: December 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Rivera, Reyna, Jackson, Vann, Arroyo, Dickens, Garodnick, Lappin, Koo, Levin, Weprin, Ignizio

Against: Barron **Abstain:** Mendez, and Williams

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on December 18, 2013. The City Planning Commission filed a letter dated December 18, 2013, with the Council on December 18, 2013, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

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

Res. No. 2105

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 140063 ZSK (L.U. No. 994), for the grant of a special permit pursuant to Section 131-60 of the Zoning Resolution to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years, on property located at 3052-3078 West 21st Street (Block 7071, Lots 27, 28, 30, 32, 34, 76, 79, 81, 130, 226, 231, and p/o Lot 142; the bed of former Highland View Avenue; and a portion of the bed of former West 22nd Street), in R5 and R7D/C2-4 Districts, within the Special Coney Island District (Coney West Subdistrict, Parcels B and G), Borough of Brooklyn.

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on December 5, 2013 its decision dated December 4, 2013 (the "Decision"), on the application submitted by Coney Island Holdings LLC and the New York City Economic Development Corporation, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit, as modified, pursuant to Section 131-60 of the Zoning Resolution to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years, on property located at 3052-3078 West 21st Street (Block 7071, Lots 27, 28, 30, 32, 34, 76, 79, 81, 130, 226, 231, and p/o Lot 142; the bed of former Highland View Avenue; and a portion of the bed of former West 22nd Street), in R5 and R7D/C2-4 Districts, within the Special Coney Island District (Coney West Subdistrict, Parcels B and G), (ULURP No. C 140063 ZSK), Community District 13, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to applications N 140064 ZRK (L.U. No. 995), a proposed amendment to the Zoning Resolution, modifying Sections 131-00 to create 113-60 (Special Permit for Auditorium Use) and 131-00 Appendix A (Coney Island Special District Plan) to create Parcel G, enlarge the Special Coney Island District, and enlarge the Coney West Sub-district; C 140065 ZMK (L.U. No. 996), a proposed amendment to the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) generally bounded by West 22nd Street, Riegelmann Boardwalk, West 23rd Street and a line 245 feet northerly of the boardwalk; C 140066 PPK (L.U. No. 997), a proposed Disposition of City Owned property to the Economic Development Corporation of the following lots on Block 7071: 27, 28, 30, 32, 34 76 79 81 130, 142, 226, and 231; C 140067 PPK (L.U. No. 998), a proposed acquisition of property by the City to allow the City to purchase the following lots on Block 7071, Lots 27, 28, 30, 32, 34 76 79 81 130, 226, and 231; and M 090107(B) MMK (L.U. No. 999), a proposed administrative modification to City Map Amendments approved by the City Planning Commission on December 3, 2010;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 131-60 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on December 17, 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 Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 25, 2013 (CEQR No. 13DME014K) and the CEQR Technical Memorandum dated December 18, 2013 (the "CEQR Technical Memorandum").

RESOLVED:

Having considered the FEIS and the CEQR Technical Memorandum, with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action adopted herein, as modified, is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FEIS and the CEQR Technical Memorandum will be minimized or avoided to the maximum extent practicable by incorporating as conditions to this approval, as modified, in accordance with environmental commitment letters, dated December 3, 2013, from the Deputy Mayor for Economic Development and November 26, 2013, from Coney Island Holdings, LLC, those, those project components related to the environment and mitigation measures that were identified as practicable; and
- (4) The Decision together with the FEIS and the CEQR Technical Memorandum constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

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 140063 ZSM, incorporated by reference herein, the Council approves the Decision with the following modifications, and subject to the following conditions:

Matter in ~~strikeout~~ is old, and deleted by the City Council.

1. The development that is the subject of this application (C 140063 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans prepared by Gerner Kronich + Valcarcel, PC and Michael Van Valkenburgh Associates, Inc., filed with this application and incorporated in this resolution.

<u>Dwg. No.</u>	<u>Title</u>	<u>Date</u>
Z-300	Overall Open Space Plan: In-Season Event	11/27/13
Z-301	Zoning Computations	11/27/13
Z-302	Operations Site Plan: In-Season Event	11/27/13
Z-303	Site Sections and Elevations: In-Season Event	11/27/13
Z-304	Event Screen Details	09/03/13
Z-305	Event Seating Details	11/27/13
Z-306	Section Stage House	09/03/13
Z-311	Site Plan: In Season Non-Event	11/27/13
Z-312	Site Sections and Elevations: In Season Non-Event	11/27/13
Z-320	Overall Open Space Plan: Off-Season	11/27/13
Z-321	Site Plan: Off-Season	11/27/13
Z-322	Site Sections and Elevations: Off-Season	11/27/13
Z-330	Site Materials Plan: Year-Round	11/27/13
Z-331	Site Grading Plan: Year-Round	11/27/13
Z-332	Site Planting Plan: Year-Round	11/27/13
Z-333	Fixed Site Furnishings Plan Year-Round	11/27/13
Z-340	Plaza/Park Paths Lighting: In-Season	11/27/13
Z-341	Plaza/Park Paths Lighting: Off-Season	11/27/13
Z-342	Plaza/Park Paths Lighting – Luminaire	09/03/13
Z-350	Stair Sections	11/27/13

Z-360	Pavement Details	11/27/13
Z-361	Planting Details	09/03/13
Z-362	Bench Details	09/03/13
Z-363	Plant Rail Details	09/03/13
Z-364	Fencing Details	09/03/13
Z-365	Handrail Details	09/03/13
Z-366	Site Furnishings: Year-Round	11/20/13
Z-367	Play Equipment Details	11/27/13
Z-368	Comfort Station Details	11/27/13
Z-370	Signage Plan	11/27/13
Z-371	Signage Childs Building	11/27/13
Z-372	Signage Childs Building 2	09/03/13
Z-401	Zoning Section Diagrams 1	11/27/13
Z-402	Zoning Section Diagrams 2	11/27/13
Z-600	Grade Level	11/27/13
Z-601	Main Floor Plan – In Season/Event	11/27/13
Z-602	Main Floor Plan – In Season/Non Event	11/27/13
Z-603	Main Floor Plan – Off Season	11/27/13
Z-604	Mezzanine Floor Plan	11/27/13
Z-605	Roof Plan	11/27/13

2. The development which is the subject of this application shall conform to all applicable laws and regulations relating to their construction, operation and maintenance.
3. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sub-lessee or occupant.
4. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms, or conditions of this resolution and the restrictive declarations whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation, or amendment of the special permit hereby granted or of the restrictive declarations.
5. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city or such employees or agents failure to act in accordance with the provisions of this special permit.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 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. 995 & Res. No. 2106

Report of the Committee on Land Use in favor of approving Application No. N 140064 ZRK submitted by Coney Island Holdings LLC and New York City

Economic Development Corporation pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Section 113-00 (Special Coney Island District), 131-60 (Special Permit for Auditoriums), Appendix A (Coney Island District Plan) relating to the development of auditorium use, in the Borough of Brooklyn, Community District 13, Council District 47.

The Committee on Land Use, to which the annexed resolution was referred on December 10, 2013 (Minutes, page 5251), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 13

N 140064 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, concerning Section 113-00 (Special Coney Island District), 131-60 (Special Permit for Auditoriums), Appendix A (Coney Island District Plan) relating to the development of auditorium use.

INTENT

This zoning text amendment, along with its related actions, would facilitate the development of limited term amphitheater, public open space, and restoration of a historic restaurant, in the Coney Island neighborhood of Brooklyn Community District 13.

PUBLIC HEARING

DATE: December 17, 2013

Witnesses in Favor: Seventeen **Witnesses Against:** Seven

SUBCOMMITTEE RECOMMENDATION

DATE: December 18, 2013

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

In Favor: Weprin, Rivera, Jackson, Vann, Garodnick, Lappin, Ignizio
Against: None **Abstain:** None

COMMITTEE ACTION

DATE: December 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Rivera, Reyna, Jackson, Vann, Arroyo, Dickens, Garodnick, Lappin, Koo, Levin, Weprin, Ignizio
Against: Barron **Abstain:** Mendez, and Williams

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

Res. No. 2106

Resolution approving the decision of the City Planning Commission on Application No. N 140064 ZRK, for an amendment of the Zoning Resolution of the City of New York, concerning Section 113-00 (Special Coney Island District), 131-60 (Special Permit for Auditoriums), Appendix A (Coney Island District Plan) relating to the development of auditorium use in Community District 13, Borough of Brooklyn (L.U. No. 995).

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on December 5, 2013 its decision dated December 4, 2013 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of City Planning for an amendment of the text of the Zoning Resolution of the City of New York, concerning Section 113-00 (Special Coney Island District), 131-60 (Special Permit for Auditoriums), Appendix A (Coney Island District Plan)

relating to the development of auditorium use, (Application No. N 140064 ZRK), Community District 13, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to applications C 140063 ZSK (L.U. No. 994), a special permit pursuant to Section 131-60 to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years; C 140065 ZMK (L.U. No. 996), a proposed amendment to the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) generally bounded by West 22nd Street, Riegelmann Boardwalk, West 23rd Street and a line 245 feet northerly of the boardwalk; C 140066 PPK (L.U. No. 997), a proposed Disposition of City Owned property to the Economic Development Corporation of the following lots on Block 7071: 27, 28, 30, 32, 34 76 79 81 130, 142, 226, and 231; C 140067 PQQ (L.U. No. 998), a proposed acquisition of property by the City to allow the City to purchase the following lots on Block 7071, Lots 27, 28, 30, 32, 34 76 79 81 130, 226, and 231; and M 090107(B) MMK (L.U. No. 999), a proposed administrative modification to City Map Amendments approved by the City Planning Commission on December 3, 2010;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 131-60 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on December 17, 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 Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 25, 2013 (CEQR No. 13DME014K) and the CEQR Technical Memorandum dated December 18, 2013 (the "CEQR Technical Memorandum").

RESOLVED:

Having considered the FEIS and the CEQR Technical Memorandum, with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action adopted herein, as modified, is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FEIS and the CEQR Technical Memorandum will be minimized or avoided to the maximum extent practicable by incorporating as conditions to this approval, as modified, in accordance with environmental commitment letters, dated December 3, 2013, from the Deputy Mayor for Economic Development and November 26, 2013, from Coney Island Holdings, LLC, those, those project components related to the environment and mitigation measures that were identified as practicable; and
- (4) The Decision together with the FEIS and the CEQR Technical Memorandum constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

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 140064 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 XIII: Special Purpose Districts

* * *

Chapter 1
Special Coney Island District

* * *

131-60
Special Permit for Auditoriums

The special permit set forth in this Section is established to allow outdoor entertainment #uses# on a limited-term basis in a unique beachfront location within the #Special Coney Island District#. The #development# of such a #use# on a temporary basis pursuant to this special permit provides for the opportunity for a valuable public amenity to exist within an area that, while approved for future #residential development# pursuant to the #Special Coney Island District# plan, is currently underutilized and does not exhibit the characteristics of a well-developed #residential# neighborhood. Any special permit granted under this Section shall be subject to a term of years, in order to ensure that such #use# is consistent with and does not impede the goal of long-term revitalization of the surrounding area, pursuant to the #Special Coney Island District# plan.

In the Coney West Subdistrict, for Parcels B and G, the City Planning Commission may approve, by special permit, open-air auditoriums with greater than 2,000 seats, for a term no greater than ten years from the date a certificate of occupancy, including a temporary certificate of occupancy, has been issued, provided that the proposed auditorium meets the conditions of paragraph (a) and the findings of paragraph (b) of this Section, in addition to the #sign# and parking provisions of paragraphs (c) and (d) of this Section, respectively.

For any application for such special permit, the applicant shall provide plans to the Commission including but not limited to a site plan, signage plan, parking and loading plan, lighting plan and operations plan (the "Proposed Plans").

(a) The Commission may permit open-air auditoriums with a maximum of 5,100 seats, provided the Proposed Plans demonstrate that:

- (1) at all times when the Riegelmann Boardwalk is open to the public, all publically accessible space, as shown on the proposed plans, will remain accessible to the public, except that access may be restricted as necessary during scheduled events, for the setup and takedown for such events, and in connection with maintenance activities; any barriers erected for the purpose of restricting access or visibility during such events shall be completely removed at all other times;
- (2) the height of all structures, temporary or fixed, does not exceed 70 feet in height, as measured from the level of the Riegelmann Boardwalk;
- (3) any roof or structural canopy above the open-air auditorium seating area will be removed prior to the month of November and shall remain removed during the entire off-season period between November through April, as well as in advance of severe weather events;
- (4) the signage plan and parking and loading plan comply with the provisions of paragraphs (c) and (d) of this Section, respectively; and
- (5) the City and applicant will enter into an agreement under which Parcel G will be returned to the City as of the expiration of the term of the special permit in a condition set forth in such agreement appropriate for #use# as a #public park#.

(b) In granting such permit, the Commission shall find that:

- (1) such open-air auditorium will not unduly impair the essential character or the future #use# or #development# of the surrounding area, pursuant to the goals and objectives of the #Special Coney Island District# plan;
- (2) the outdoor lighting for such open-air auditorium is located and arranged so as to minimize any negative effects on nearby #residences# and #community facilities#, and that Proposed Plans include noise attenuation features and measures which serve to reduce the effect of noise from the open-air auditorium on the surrounding area, including nearby #residences# and #community facilities#;
- (3) the construction of a stage as part of any #building# on Parcel B, for the purpose of accommodating an open-air auditorium #use#, will:

(i) enable the stage area to be closed to the outdoor portion of the open-air auditorium during the off-season when the open-air auditorium is not in use, so as to be operated for indoor entertainment #uses# with an eating and drinking establishment or other #use# permitted on Parcel B; and

(ii) allow for such #building# to be operated subsequent to the expiration of the special permit for #uses# permitted on Parcel B, such as eating or drinking establishments with entertainment;

(4) appropriate visual and pedestrian connections are maintained in the general area of the former street bed from the termination of West 22st Street to the Riegelmann Boardwalk;

(5) the portions of the site not dedicated to stage area or event seating are so designed to serve as a full time park-like resource for the public, and the portions of the site designed for open-air auditorium #use# serve as a high-quality open space resource when not in auditorium use;

(6) any roof or structural canopy above the open-air auditorium seating area will be visually unobtrusive, and maximize openness and visibility between the site and the Riegelmann Boardwalk,

(7) the operations plan, which shall include a protocol for queuing for concert-goers, demonstrates that there would be no interference with the public use and enjoyment of adjacent public facilities; and

(8) the site plan, signage plan and lighting plan incorporate good design, effectively integrate the site with surrounding streets and the Riegelmann Boardwalk, and are consistent with the purposes of the #Special Coney Island District#.

(c) The Commission may, through approval of the Proposed Plans, permit #signs# notwithstanding the applicable #sign# regulations, except that #flashing signs# shall not be permitted and only #advertising signs# that are oriented toward the interior of the open-air amphitheater and not visible from the Riegelmann Boardwalk or other public area shall be permitted.

In order to permit such #signs#, the Commission shall find that proposed signage is appropriate in connection with the permitted open-air auditorium #use#, is not unduly concentrated within one portion of the site, and will not negatively affect the surrounding area.

(d) The Commission may, through approval of the Proposed Plans, reduce or waive required parking or loading requirements, provided the Commission finds that the open-air auditorium will be adequately served by a combination of surrounding public parking facilities and mass transit. In addition, the Commission shall find that the proposed loading facilities on the site are located so as not to adversely affect the movement of pedestrians or vehicles on the #streets# surrounding the auditorium.

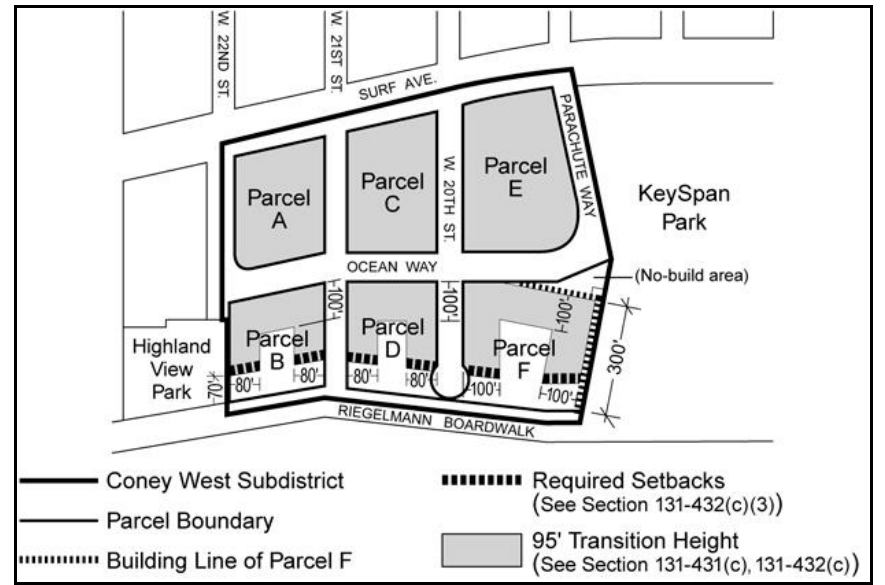
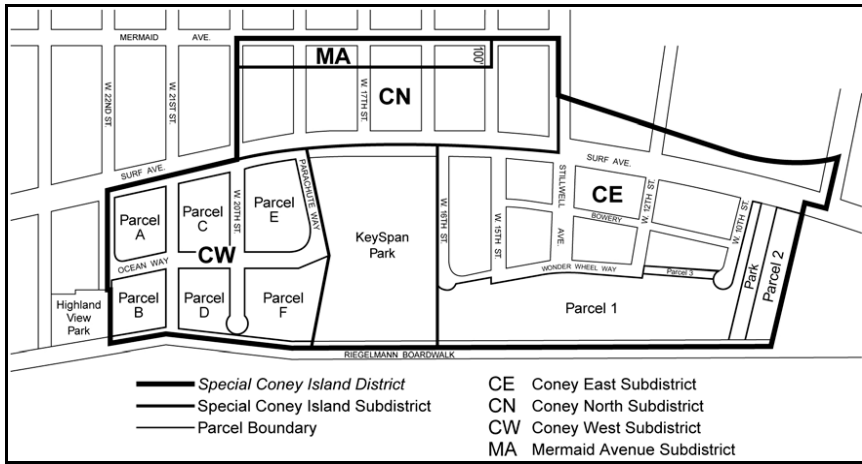
The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area. Such conditions and safeguards may include, but are not limited to restrictions on signage or requirements for soundproofing of auditoriums, shielding of floodlights or screening of open #uses#.

Upon the first issuance of this permit for an open-air auditorium, the effective period of the permit shall be ten years from the date a certificate of occupancy, including a temporary certificate of occupancy, has been issued. To establish the term of years for subsequent applications for this special permit, the Commission shall, in determining whether the finding of paragraph (b)(1) of this Section is met, take into account the existing character of the surrounding area, as well as #residential# and #community facility development# proposed or under construction on surrounding #blocks#, and shall also consider whether continuation of such auditorium #use# within a proposed term of years would be compatible with or may hinder achievement of the goals and objectives of the #Special Coney Island District# plan. Subsequent applications for this special permit shall be filed no later than one year prior to expiration of the term of the permit then in effect.

Appendix A
Coney Island District Plan

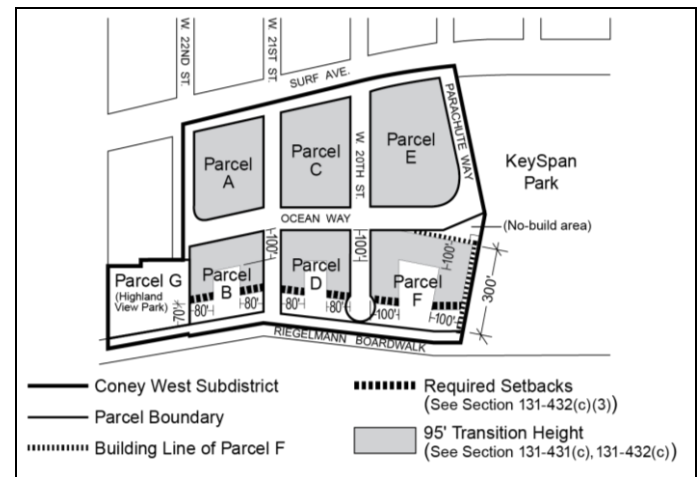
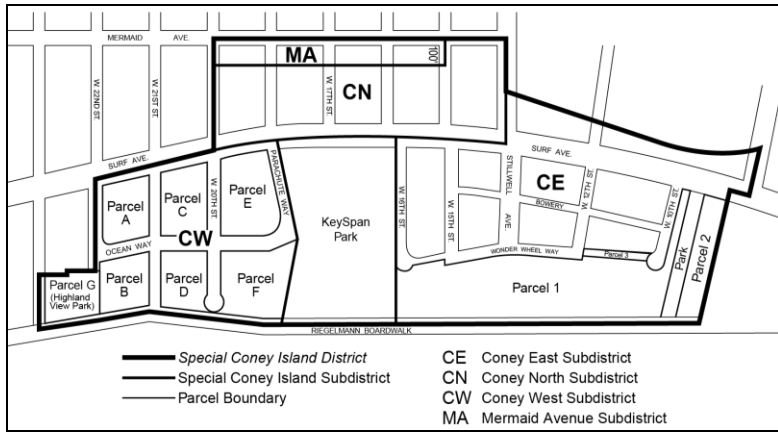
Map 1 - Special Coney Island District and Subdistricts

[MAP TO BE DELETED]



[MAP TO BE INSERTED]

[MAP TO BE INSERTED]



Map 2 - Mandatory Ground Floor Use Requirements

[EXISTING MAP TO BE UPDATED WITH REVISED DISTRICT BOUNDARY]

* * *

Map 4 - Street Wall Location

[EXISTING MAP TO BE UPDATED WITH REVISED DISTRICT BOUNDARY]

Map 5 - Minimum and Maximum Base Heights

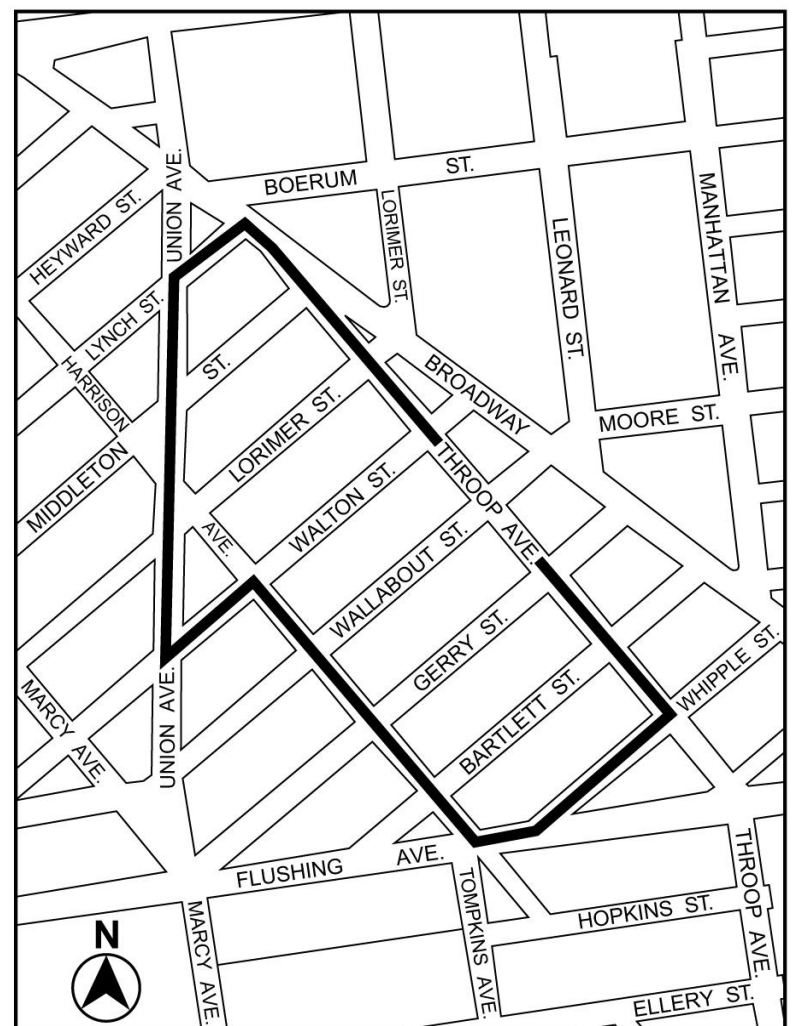
[EXISTING MAP TO BE UPDATED WITH REVISED DISTRICT BOUNDARY]

Map 6 - Coney West Subdistrict Transition Heights

[MAP TO BE DELETED]

**EXISTING
(TO BE DELETED)**
Map 4 (12/21/09)

Portion of Community District 1, Brooklyn



**PROPOSED
(TO REPLACE EXISTING)**

Map 4 (xx/xx/xx)



Portion of Community District 1, Brooklyn

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 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. 996 & Res. No. 2107

Report of the Committee on Land Use in favor of approving Application No. C 140065 ZMK submitted by Coney Island Holdings, LLC and the New York City Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) bounded by a line perpendicular to the easterly street line of West 23rd Street distant 245 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West 23rd Street and northerly boundary line of Riegelmann Boardwalk, a line 110 feet easterly of West 23rd Street, a line 150 feet northerly of former Highland View Avenue and its easterly prolongation, the easterly street line of former West 22nd Street, the northerly boundary line of Riegelmann Boardwalk, and West 23rd Street, in the Borough of Brooklyn, Community District 13, Council District 47.

The Committee on Land Use, to which the annexed resolution was referred on December 10, 2013 (Minutes, page 5251), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 13

C 140065 ZMK

City Planning Commission decision approving an application submitted by Coney Island Holdings, LLC and the New York City Economic Development

Corporation pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) bounded by a line perpendicular to the easterly street line of West 23rd Street distant 245 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West 23rd Street and northerly boundary line of Riegelmann Boardwalk, a line 110 feet easterly of West 23rd Street, a line 150 feet northerly of former Highland View Avenue and its easterly prolongation, the easterly street line of former West 22nd Street, the northerly boundary line of Riegelmann Boardwalk, and West 23rd Street, as shown on a diagram (for illustrative purposes only), dated September 9, 2013.

INTENT

This zoning map amendment, along with its related actions, would facilitate the development of limited term amphitheater, public open space, and restoration of a historic restaurant, in the Coney Island neighborhood of Brooklyn Community District 13.

PUBLIC HEARING

DATE: December 17, 2013

Witnesses in Favor: Seventeen

Witnesses Against: Seven

SUBCOMMITTEE RECOMMENDATION

DATE: December 18, 2013

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

In Favor: Weprin, Rivera, Jackson, Vann, Garodnick, Lappin, Ignizio

Against: None **Abstain:** None

COMMITTEE ACTION

DATE: December 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Rivera, Reyna, Jackson, Vann, Arroyo, Dickens, Garodnick, Lappin, Koo, Levin, Weprin, Ignizio

Against: Barron **Abstain:** Mendez, and Williams

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

Res. No. 2107

Resolution approving the decision of the City Planning Commission on ULURP No. C 140065 ZMK, a Zoning Map amendment (L.U. No. 996).

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on December 5, 2013 its decision dated December 4, 2013 (the "Decision"), on the application submitted by Coney Island Holdings, LLC and the New York City Economic Development Corporation, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) bounded by a line perpendicular to the easterly street line of West 23rd Street distant 245 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West 23rd Street and northerly boundary line of Riegelmann Boardwalk, a line 110 feet easterly of West 23rd Street, a line 150 feet northerly of former Highland View Avenue and its easterly prolongation, the easterly street line of former West 22nd Street, the northerly boundary line of Riegelmann Boardwalk, and West 23rd Street, as shown on a diagram (for illustrative purposes only), dated September 9, 2013, Community District 13, Borough of Brooklyn (ULURP No. C 140065 ZMK) (the "Application");

WHEREAS, the Application is related to applications C 140063 ZSK (L.U. No. 994), a special permit pursuant to Section 131-60 to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years; N 140064 ZRK (L.U. No. 995), a proposed amendment to the Zoning Resolution, modifying Sections 131-00 to create 113-60 (Special Permit for Auditorium Use) and 131-00

Appendix A (Coney Island Special District Plan) to create Parcel G, enlarge the Special Coney Island District, and enlarge the Coney West Sub-district; C 140066 PPK (L.U. No. 997), a proposed Disposition of City Owned property to the Economic Development Corporation of the following lots on Block 7071: 27, 28, 30, 32, 34 76 79 81 130, 142, 226, and 231; C 140067 PPK (L.U. No. 998), a proposed acquisition of property by the City to allow the City to purchase the following lots on Block 7071, Lots 27, 28, 30, 32, 34 76 79 81 130, 226, and 231; and M 090107(B) MMK (L.U. No. 999), a proposed administrative modification to City Map Amendments approved by the City Planning Commission on December 3, 2010;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 131-60 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on December 17, 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 Final Environmental Impact Statement (“FEIS”) for which a Notice of Completion was issued on October 25, 2013 (CEQR No. 13DME014K) and the CEQR Technical Memorandum dated December 18, 2013 (the “CEQR Technical Memorandum”).

RESOLVED:

Having considered the FEIS and the CEQR Technical Memorandum, with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action adopted herein, as modified, is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FEIS and the CEQR Technical Memorandum will be minimized or avoided to the maximum extent practicable by incorporating as conditions to this approval, as modified, in accordance with environmental commitment letters, dated December 3, 2013, from the Deputy Mayor for Economic Development and November 26, 2013, from Coney Island Holdings, LLC, those, those project components related to the environment and mitigation measures that were identified as practicable; and
- (4) The Decision together with the FEIS and the CEQR Technical Memorandum constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

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 140065 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 No. 28d, establishing a Special Coney Island District (CI) bounded by a line perpendicular to the easterly street line of West 23rd Street distant 245 feet northerly (as measured along the street line) from the point of intersection of the easterly street line of West 23rd Street and northerly boundary line of Riegelmann Boardwalk, a line 110 feet easterly of West 23rd Street, a line 150 feet northerly of former Highland View Avenue and its easterly prolongation, the easterly street line of former West 22nd Street., the northerly boundary line of Riegelmann Boardwalk, and West 23rd Street, as shown on a diagram (for illustrative purposes only), dated September 9, 2013, Community District 13, Borough of Brooklyn.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 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. 997 & Res. No. 2108

Report of the Committee on Land Use in favor of approving Application No. C 140066 PPK submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for disposition, by lease agreement, to the New York City Land Development Corporation (NYCLDC) of city-owned property located on Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 142 and 226, restricted to the conditions pursuant to NYC Zoning Resolution (ZR) Section 131-60 (Special Permit for Auditoriums), in the Borough of Brooklyn, Community District 13, Council District 47.

The Committee on Land Use, to which the annexed resolution was referred on December 10, 2013 (Minutes, page 5252), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 13

C 140066 PPK

City Planning Commission decision approving an application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for disposition, by lease agreement, to the New York City Land Development Corporation (NYCLDC) of city-owned property located on Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 142 and 226, restricted to the conditions pursuant to NYC Zoning Resolution (ZR) Section 131-60 (Special Permit for Auditoriums).

INTENT

This disposition action, along with its related actions, would facilitate the development of limited term amphitheater, public open space, and restoration of a historic restaurant, in the Coney Island neighborhood of Brooklyn Community District 13.

PUBLIC HEARING

DATE: December 17, 2013

Witnesses in Favor: Seventeen

Witnesses Against: Seven

SUBCOMMITTEE RECOMMENDATION

DATE: December 18, 2013

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

In Favor: Weprin, Rivera, Jackson, Vann, Garodnick, Lappin, Ignizio

Against: None **Abstain:** None

COMMITTEE ACTION

DATE: December 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Rivera, Reyna, Jackson, Vann, Arroyo, Dickens, Garodnick, Lappin, Koo, Levin, Weprin, Ignizio

Against: Barron **Abstain:** Mendez, and Williams

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

Res. No. 2108

Resolution approving the decision of the City Planning Commission on ULURP No. C 140066 PPK, for disposition, by lease agreement, to the New York City Land Development Corporation (NYCLDC) of city-owned property located on Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 142 and 226,

restricted to the conditions pursuant to NYC Zoning Resolution (ZR) Section 131-60 (Special Permit for Auditoriums), Borough of Brooklyn (L.U. No. 997).

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on December 5, 2013 its decision dated December 4, 2013 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by Coney Island Holdings, LLC and the Department of Citywide Administrative Services (DCAS), for the disposition, by lease agreement, to the New York City Land Development Corporation (NYCLDC) of city-owned property located on Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 142 and 226, restricted to the conditions pursuant to NYC Zoning Resolution (ZR) Section 131-60 (Special Permit for Auditoriums), (ULURP No. C 140066 PPK) (the "Application");

WHEREAS, the Application is related to applications C 140063 ZSK (L.U. No. 994), a special Permit pursuant to Section 131-60 to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years; N 140064 ZRK (L.U. No. 995), a proposed amendment to the Zoning Resolution, modifying Sections 131-00 to create 113-60 (Special Permit for Auditorium Use) and 131-00 Appendix A (Coney Island Special District Plan) to create Parcel G, enlarge the Special Coney Island District, and enlarge the Coney West Sub-district; C 140065 ZMK (L.U. No. 996), a proposed amendment to the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) generally bounded by West 22nd Street, Riegelmann Boardwalk, West 23rd Street and a line 245 feet northerly of the boardwalk; C 140067 PPK (L.U. No. 998), a proposed acquisition of property by the City to allow the City to purchase the following lots on Block 7071, Lots 27, 28, 30, 32, 34 76 79 81 130, 226, and 231; and M 090107(B) MMK (L.U. No. 999), a proposed administrative modification to City Map Amendments approved by the City Planning Commission on December 3, 2010;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the New York City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 131-60 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on December 17, 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 Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 25, 2013 (CEQR No. 13DME014K) and the CEQR Technical Memorandum dated December 18, 2013 (the "CEQR Technical Memorandum").

RESOLVED:

Having considered the FEIS and the CEQR Technical Memorandum, with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action adopted herein, as modified, is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FEIS and the CEQR Technical Memorandum will be minimized or avoided to the maximum extent practicable by incorporating as conditions to this approval, as modified, in accordance with environmental commitment letters, dated December 3, 2013, from the Deputy Mayor for Economic Development and November 26, 2013, from Coney Island Holdings, LLC, those, those project components related to the environment and mitigation measures that were identified as practicable; and
- (4) The Decision together with the FEIS and the CEQR Technical Memorandum constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

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 140066 PPK, incorporated by reference herein, the Council approves the Decision for disposition, by lease agreement, to the

New York City Land Development Corporation (NYCLDC) of city-owned property located on Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 142 and 226, restricted to the conditions pursuant to NYC Zoning Resolution (ZR) Section 131-60 (Special Permit for Auditoriums), Community District 13, Borough of Brooklyn.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 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. 998 & Res. No. 2109

Report of the Committee on Land Use in favor of approving Application No. C 140067 PPK submitted by the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property generally bounded by West 21st Street, West 22nd Street and the Riegelmann Boardwalk (Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 226, and 231), in the Borough of Brooklyn, Community District 13, Council District 47.

The Committee on Land Use, to which the annexed resolution was referred on December 10, 2013 (Minutes, page 5252), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 13

C 140067 PPK

City Planning Commission decision approving an application submitted by the Department of Citywide Administrative Services, pursuant to Section 197-c of the New York City Charter, for the acquisition of property generally bounded by West 21st Street, West 22nd Street and the Riegelmann Boardwalk (Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 226, and 231).

INTENT

This acquisition action, along with its related actions, would facilitate the development of limited term amphitheater, public open space, and restoration of a historic restaurant, in the Coney Island neighborhood of Brooklyn Community District 13.

PUBLIC HEARING

DATE: December 17, 2013

Witnesses in Favor: Seventeen

Witnesses Against: Seven

SUBCOMMITTEE RECOMMENDATION

DATE: December 18, 2013

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

In Favor: Weprin, Rivera, Jackson, Vann, Garodnick, Lappin, Ignizio

Against: None

Abstain: None

COMMITTEE ACTION

DATE: December 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Rivera, Reyna, Jackson, Vann, Arroyo, Dickens, Garodnick, Lappin, Koo, Levin, Weprin, Ignizio

Against: Barron

Abstain: Mendez, and Williams

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

Res. No. 2109

Resolution approving the decision of the City Planning Commission on ULURP No. C 140067 POK (L.U. No. 998), for the acquisition of property generally bounded by West 21st Street, West 22nd Street and the Riegelmann Boardwalk (Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 226, and 231), in Community District 13, Borough of Brooklyn.

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on December 5, 2013 its decision dated December 4, 2013 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the Department of Citywide Administrative Services (DCAS), for the acquisition of property generally bounded by West 21st Street, West 22nd Street and the Riegelmann Boardwalk (Block 7071, Lots 27, 28, 30, 32, 34, 76, 130, 226, and 231), (the "Site"), Community District 13, (ULURP No. C 140067 POK) Borough of Brooklyn, to facilitate the development of limited term amphitheater, public open space, and restoration of a historic restaurant, in the Coney Island neighborhood of Brooklyn (the "Application");

WHEREAS, the Application is related to applications C 140063 ZSK (L.U. No. 994), a special permit pursuant to Section 131-60 to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years; N 140064 ZRK (L.U. No. 995), a proposed amendment to the Zoning Resolution, modifying Sections 131-00 to create 113-60 (Special Permit for Auditorium Use) and 131-00 Appendix A (Coney Island Special District Plan) to create Parcel G, enlarge the Special Coney Island District, and enlarge the Coney West Sub-district; C 140065 ZMK (L.U. No. 996), a proposed amendment to the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) generally bounded by West 22nd Street, Riegelmann Boardwalk, West 23rd Street and a line 245 feet northerly of the boardwalk; C 140066 PPK (L.U. No. 997), a proposed Disposition of City Owned property to the Economic Development Corporation of the following lots on Block 7071: 27, 28, 30, 32, 34 76 79 81 130, 142, 226, and 231; and M 090107(B) MMK (L.U. No. 999), a proposed administrative modification to City Map Amendments approved by the City Planning Commission on December 3, 2010;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 131-60 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on December 17, 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 Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 25, 2013 (CEQR No. 13DME014K) and the CEQR Technical Memorandum dated December 18, 2013 (the "CEQR Technical Memorandum").

RESOLVED:

Having considered the FEIS and the CEQR Technical Memorandum, with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action adopted herein, as modified, is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FEIS and the CEQR Technical Memorandum will be minimized or avoided to the maximum extent practicable by incorporating as conditions to this approval, as modified, in accordance with environmental commitment letters, dated December 3, 2013, from the Deputy Mayor for Economic Development and November 26, 2013, from Coney Island Holdings, LLC, those, those project components related to the environment and mitigation measures that were identified as practicable; and

- (4) The Decision together with the FEIS and the CEQR Technical Memorandum constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

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 140067 POK, incorporated by reference herein, the Council approves the Decision for the acquisition of property bounded by West 21st Street, West 22nd Street and the Riegelmann Boardwalk (Block 7071, Lots 27, 28, 30, 32, 34, 76, 130 226, and 231).

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 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. 999 & Res. No. 2110

Report of the Committee on Land Use in favor of approving Application No. M 090107(B) MMK submitted by the New York City Economic Development for a modification of the resolution adopted by the City Planning Commission on June 17, 2009 (Calendar No. 14) approving an application (C 090107 MMK) for an amendment to the City Map involving, inter alia, the elimination of streets within an area bounded by West 22nd Street, West 23rd Street, and Public Beach in accordance with Map Nos. X-2711 dated January 14, 2009, revised June 17, 2009 and August 16, 2013 and X-2739 dated August 16, 2013 and signed by the Borough President, in the Borough of Brooklyn, Community District 13, Council District 47.

The Committee on Land Use, to which the annexed resolution was referred on December 10, 2013 (Minutes, page 5252), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 13

M 090107(B) MMK

City Planning Commission decision approving an application submitted by the New York City Economic Development for a modification of the resolution adopted by the City Planning Commission on June 17, 2009 (Calendar No. 14) approving an application (C 090107 MMK) for an amendment to the City Map involving, inter alia, the elimination of streets within an area bounded by West 22nd Street, West 23rd Street, and Public Beach in accordance with Map Nos. X-2711 dated January 14, 2009, revised June 17, 2009 and August 16, 2013 and X-2739 dated August 16, 2013 and signed by the Borough President.

INTENT

This modification of a previously approved City Map amendment, along with its related actions, would facilitate the development of limited term amphitheater, public open space, and restoration of a historic restaurant, in the Coney Island neighborhood of Brooklyn Community District 13.

PUBLIC HEARING

DATE: December 17, 2013

Witnesses in Favor: Seventeen

Witnesses Against: Seven

SUBCOMMITTEE RECOMMENDATION

DATE: December 18, 2013

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

In Favor: Weprin, Rivera, Jackson, Vann, Garodnick, Lappin, Ignizio

Against: None

Abstain: None

COMMITTEE ACTION

DATE: December 18, 2013

The Committee recommends that the Council approve the attached resolution.

In Favor: Rivera, Reyna, Jackson, Vann, Arroyo, Dickens, Garodnick, Lappin, Koo, Levin, Weprin, Ignizio

Against: Barron **Abstain:** Mendez, and Williams

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

Res. No. 2110

Resolution approving the decision of the City Planning Commission on ULURP No. M 090107(B) MMK, an amendment to the City Map (L.U. No. 999).

By Council Members Comrie and Weprin.

WHEREAS, the City Planning Commission filed with the Council on December 5, 2013 its decision dated December 4, 2013 (the "Decision"), on the resolution adopted by the City Planning Commission for an amendment to the City Map involving, *inter alia*, the elimination of streets and the establishment of streets and parks within an area bounded by Surf Avenue, West 23rd Street, the Public Beach and West 24th Street in accordance with Map Nos. X-2711 dated January 14, 2009, revised June 17, 2009 and August 16, 2013 and X-2739 dated August 16, 2013 and signed by the Borough President, in the Coney Island neighborhood, (ULURP No. M 090107(B) MMK), Community District 13, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to applications C 140063 ZSK (L.U. No. 994), a special permit pursuant to Section 131-60 to allow an open-air auditorium with a maximum of 5,099 seats for a term no greater than ten (10) years; N 140064 ZRK (L.U. No. 995), a proposed amendment to the Zoning Resolution, modifying Sections 131-00 to create 113-60 (Special Permit for Auditorium Use) and 131-00 Appendix A (Coney Island Special District Plan) to create Parcel G, enlarge the Special Coney Island District, and enlarge the Coney West Sub-district; C 140065 ZMK (L.U. No. 996), a proposed amendment to the Zoning Map, Section No. 28d, establishing a Special Coney Island District (CI) generally bounded by West 22nd Street, Riegelmann Boardwalk, West 23rd Street and a line 245 feet northerly of the boardwalk; C 140066 PPK (L.U. No. 997), a proposed Disposition of City Owned property to the Economic Development Corporation of the following lots on Block 7071: 27, 28, 30, 32, 34 76 79 81 130, 142, 226, and 231; and C 140067 POK (L.U. No. 998), a proposed acquisition of property by the City to allow the City to purchase the following lots on Block 7071, Lots 27, 28, 30, 32, 34 76 79 81 130, 226, and 231;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on December 17, 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 Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 25, 2013 (CEQR No. 13DME014K) and the CEQR Technical Memorandum dated December 18, 2013 (the "CEQR Technical Memorandum").

RESOLVED:

Having considered the FEIS and the CEQR Technical Memorandum, with respect to the Decision and Application, the Council finds that:

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic, and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action adopted herein, as modified, is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FEIS and the

CEQR Technical Memorandum will be minimized or avoided to the maximum extent practicable by incorporating as conditions to this approval, as modified, in accordance with environmental commitment letters, dated December 3, 2013, from the Deputy Mayor for Economic Development and November 26, 2013, from Coney Island Holdings, LLC, those, those project components related to the environment and mitigation measures that were identified as practicable; and

- (4) The Decision together with the FEIS and the CEQR Technical Memorandum constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and Section 5-433 of the New York City Administrative Code and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, M 090107(B) MMK, incorporated by reference herein, the Council approves the Decision, for an amendment to the City Map described as follows:

STREETS TO BE DISCONTINUED AND CLOSED AS SHOWN ON ALTERATION MAP NO. X-2711, DATED JANUARY 14, 2009, REVISED JUNE 17, 2009 AND AUGUST 16, 2013

PARCEL 1

Starting at a Point of Beginning located at the intersection of the easterly street line of West 22nd Street and the newly established southerly street terminus line of West 22nd Street, said point being distant 46.96 feet southerly along said easterly street line of West 22nd Street from its intersection with the newly established southerly street line of Ocean Way, as those streets and public beach were hereinbefore laid out on the City Map;

- 1) Running thence southerly, along the former easterly street line of West 22nd Street, discontinued and closed, in the projection of the existing easterly street line of West 22nd Street, 216.71 feet to its intersection with the northerly line of Public Beach;
- 2) Running thence westerly, along said northerly line of Public Beach, which is coterminous with the former southerly street terminus line of West 22nd Street, discontinued and closed, said course forming a deflection angle to the right with the last mentioned course of 79 degrees 54 minutes 12 seconds, 60.94 feet to its intersection with the former westerly street line of West 22nd Street, discontinued and closed;
- 3) Running thence northerly, along said former westerly street line of West 22nd Street, discontinued and closed, said course forming a deflection angle to the right with the last mentioned course of 100 degrees 05 minutes 24 seconds, 46.88 feet to its intersection with the former southerly street line of Highland View Avenue, discontinued and closed;
- 4) Running thence westerly, along said former southerly street line of Highland View Avenue, discontinued and closed, said course forming a deflection angle to the left with the last mentioned course of 90 degrees 28 minutes 49 seconds, 217.02 feet to its intersection with the easterly street line of West 23rd Street;
- 5) Running thence northerly, along the newly established easterly street line of West 23rd Street, said course forming a deflection angle to the right with the last mentioned course of 90 degrees 00 minutes 00 seconds, 60.00 feet to its intersection with the former northerly street line of Highland View Avenue, discontinued and closed;
- 6) Running thence easterly, along said former northerly street line of Highland View Avenue, discontinued and closed, said course forming a deflection angle to the right with the last mentioned course of 90 degrees 00 minutes 00 seconds, 218.80 feet to its intersection with the former westerly street line of West 22nd Street, discontinued and closed;
- 7) Running thence northerly, along said former westerly street line of West 22nd Street, discontinued and closed, said course forming a deflection angle to the left with the last mentioned course of 90 degrees 00 minutes 00 seconds, 54.19 feet to an angle point;
- 8) Continuing thence northerly, along said former westerly street line of West 22nd Street, discontinued and closed, said course forming a deflection angle to the left with the last mentioned course of 0 degrees 31 minutes 31 seconds, 45.81 feet to an angle point;

- 9) Continuing thence northerly, along said former westerly street line of West 22nd Street, discontinued and closed, said course forming a deflection angle to the right with the last mentioned course of 1 degree 00 minutes 44 seconds, 20.00 feet to its intersection with the newly established southerly street terminus line of West 22nd Street;
- 10) Running thence easterly, along said newly established southerly street terminus line of West 22nd Street, said course forming a deflection angle to the right with the last mentioned course of 89 degrees 31 minutes 08 seconds, 60.00 feet to the Point or Place of Beginning.

Said street land to be discontinued and closed contains an area of 26,270.16 square feet, more or less.

All such approvals being subject to the following conditions:

- a. The subject amendment to the City Map shall take effect on the day following the day on which certified counterparts of Map Nos. X-2711 and X-2739 are filed with the appropriate agencies in accordance with Section 198 subsection c of the New York City Charter and Section 5-435 of the New York City Administrative Code;
- b. The subject streets to be discontinued and closed shall be discontinued and closed on the day following the day on which such maps adopted by this resolution shall be filed in the offices specified by law.

JOEL RIVERA, Acting Chairperson; DIANA REYNA, ROBERT JACKSON, ALBERT VANN, MARIA del CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, PETER A. KOO, STEPHEN T. LEVIN, MARK S. WEPRIN, VINCENT M. IGNIZIO; Committee on Land Use, December 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).

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>
Nicholas Milyadis	133 Pitt Street #902 New York, N.Y. 10002	1
Shanicaqua Spruell	1105 Tinton Avenue Bronx, N.Y. 10451	16
Deniece Turner	779 Concourse Village East #7D Bronx, N.Y. 10451	16
Crystal Rivera	50 East 168 th Street #510 Bronx, N.Y. 10452	16
Yassed Mike Baez	42-29 202 nd Street Bayside, N.Y. 11361	19
Kathy Elmaghrabi	115 Oak Street Brooklyn, N.Y. 11222	33
Christabel Okafor	1632 Prospect Place #1 Brooklyn, N.Y. 11233	41
Stacey Williams	1019 East 88 th Street #2 Brooklyn, N.Y. 11236	46
Balsulu Baskanova	1375 Ocean Avenue #5E Brooklyn, N.Y. 11230	48
Michael A. Marcivliano	111 East Broadway Staten Island, N.Y. 10306	50

Approved New Applicants and Reapplicants

<u>Name</u>	<u>Address</u>	<u>District #</u>
Elba Feliciano	55 Rutgers Street #7B New York, N.Y. 10002	1
Joseph Guidetti	90 Beekman Street #6K New York, N.Y. 10038	1
Joan Guidetti	90 Beekman Street #6K New York, N.Y. 10038	1
Ellen T. Pine	245 East 25 th Street #7L New York, N.Y. 10010	2
Veer A. Gulati	45 East 45 th Street New York, N.Y. 10017	3
Kelly Francis Callahan	315 East 70 th Street #3J New York, N.Y. 10021	5
Calvin C. Bass	788 Riverside Drive #7A New York, N.Y. 10032	7
Jewel Caldwell	67 Lenox Avenue #2A New York, N.Y. 10026	9
Rosa G. Diaz	1951 Park Avenue #N607 New York, N.Y. 10037	9
Sherry Johnson	2494 8 th Avenue #5B New York, N.Y. 10030	9
Helena Lempert	2121 Paulding Avenue #8T Bronx, N.Y. 10462	13
Margaritz Mendez	901 Neil Avenue Bronx, N.Y. 10462	13
Rosemarie Mercado	2074 Wallace Avenue #303 Bronx, N.Y. 10462	13
Julia Robles	1312 Balcom Avenue #1 Bronx, N.Y. 10461	13
Jean Michelle Rodriguez	11 West 172 nd Street #1E Bronx, N.Y. 10452	16
Esther Scott	1368 Webster Avenue #17A Bronx, N.Y. 10456	16
Donna Taylor-Sanders	814 Ritter Place Bronx, N.Y. 10459	16
Pamela M. Gilbert	331 East 132 nd Street #2F Bronx, N.Y. 10454	17
Giuliana Garcia	13-08 123 rd Street Queens, N.Y. 11356	19
Athena Kiamos	67-21 Springfield Blvd Queens, N.Y. 11364	23
Kunta Rawat	51-01 39 th Avenue #N42 Sunnyside, N.Y. 11104	26
Edgar Hurley	216-60 113 th Drive Queens, N.Y. 11429	27
Debbie C. Hyles	185-01 Galway Avenue #2 Queens, N.Y. 11412	27
Xiangqun Huang	67-66 108 th Street #B65 Queens, N.Y. 11375	29
Russell Pecunies	156-23 78 th Street Howard Beach, N.Y. 11414	32
Kristi Petho	132-26 86 th Street Ozone Park, N.Y. 11417	32
Marguerite Connelly	60 Sackett Street Brooklyn, N.Y. 11231	33
Francis Taveras	390 Central Avenue Brooklyn, N.Y. 11221	34
Joyce Washington	212 South Oxford Street #4I Brooklyn, N.Y. 11217	35
Vivolyn Ford	131 Lincoln Road #6A Brooklyn, N.Y. 11225	40
Terril Lesane	145 Lincoln Road #5G Brooklyn, N.Y. 11225	40
James Lewis Jr.	177 Lenox Road #C2 Brooklyn, N.Y. 11226	40
Shanda Swain	675 Lincoln Avenue #16J Brooklyn, N.Y. 11208	42

Marilyn E. Thomas-Dow	3021 Avenue I #B9 Brooklyn, N.Y. 11210	45
Rayna Rosenberg	2434 East 72 nd Street Brooklyn, N.Y. 11234	46
Natalia Gulik	2626 Homecrest Avenue #6M Brooklyn, N.Y. 11235	48
Gail E. Brennan	300 Mosely Avenue Staten Island, N.Y. 10314	51
James H. Marsh	146 Brighton Street Staten Island, N.Y. 10307	51
Alan D. Tognan	138 William Avenue Staten Island, N.Y. 10308	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) **M 1338 -** Mayor's veto and disapproval message of Int No. 951-A **(Coupled to be Filed).**
- (2) **Int 172-A -** Exemptions from the payment of fees for fire department permits, inspections and performance tests.
- (3) **Int 193-A -** Require notification to the council of emergency procurements.
- (4) **Int 635-A -** Requiring online publication of commuter van information.
- (5) **Int 859-A -** Requiring the police department to submit to the council reports of crime in all parks and playgrounds.
- (6) **Int 867-A -** Creation of a voluntary master environmental hazard remediation technician registration program.
- (7) **Int 876-A -** Operation of a sidewalk cafe.
- (8) **Int 891-A -** Requiring the mayor to submit an annual report on poverty.
- (9) **Int 933-A -** Creating an animal abuse registry.
- (10) **Int 951-A -** Public notice of final rules **(Coupled for an Override vote requiring an affirmative vote of at least two-thirds of the Council for passage).**
- (11) **Int 1039-A -** Review and approval of petitions for revocable consents to operate sidewalk cafes.
- (12) **Int 1040-A -** Creation of a database to track the expenditure of funds in connection with recovery efforts in the wake of Hurricane Sandy.
- (13) **Int 1055-A -** Requiring the New York City Police Department to report information concerning vehicle collisions in which a driver left the scene of the collision.
- (14) **Int 1056-A -** Amending 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 in relation to bringing such codes up to date with the 2009 editions of the international building, mechanical, fuel gas and plumbing codes, with differences that reflect the unique character of the city and clarifying and updating administration and enforcement of such codes **(with a Message of Necessity from the Mayor requiring an affirmative vote of at least two-thirds of the Council for passage).**
- (15) **Int 1159-A -** Opportunities for veteran-owned business enterprises in city

- (16) **Int 1060-A -** procurement.
Restrictions on the sale or use of certain expanded polystyrene items **(with a Message of Necessity from the Mayor requiring an affirmative vote of at least two-thirds of the Council for passage).**
- (17) **Int 1102-A -** Improving hazardous materials storage pursuant to the New York city community right-to-know law.
- (18) **Int 1160-A -** Reducing the emissions of pollutants from heavy duty trade waste hauling vehicles.
- (19) **Int 1162-A -** Commercial organic waste **(with a Message of Necessity from the Mayor requiring an affirmative vote of at least two-thirds of the Council for passage).**
- (20) **Int 1171-A -** Sale of tax liens **(with a Message of Necessity from the Mayor requiring an affirmative vote of at least two-thirds of the Council for passage).**
- (21) **Int 1174-A -** Enhancement of emergency preparedness in New York city and the adoption of current fire safety standards as incorporated in the 2009 edition of the international fire code **(with a Message of Necessity from the Mayor requiring an affirmative vote of at least two-thirds of the Council for passage).**
- (22) **Int 1177-A -** Recordkeeping requirements for second-hand dealers and pawnbrokers.
- (23) **Int 1186 -** Establishment of the Hudson Yards business improvement district.
- (24) **Int 1204-A -** Extending the rate of the additional tax on the occupancy of hotel rooms.
- (25) **Int 1208-A -** Provision of sick time earned by employees.
- (26) **Int 1210-A -** Regulation of electronic cigarettes.
- (27) **Int 1213-A -** Replacing certain fines with opportunities to cure **(with a Message of Necessity from the Mayor requiring an affirmative vote of at least two-thirds of the Council for passage).**
- (28) **Int 1217 -** Naming of six thoroughfares and public places **(with a Message of Necessity from the Mayor requiring an affirmative vote of at least two-thirds of the Council for passage).**
- (29) **Int 1227 -** Health insurance coverage for surviving family members of certain deceased employees of the police department.
- (30) **Int 1228 -** Date of submission by the mayor of a preliminary management report and the date prior to which the council shall conduct public hearings.
- (31) **Res 2058-A --** Setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1060-A.
- (32) **Res 2081 -** Finding that the enactment of Proposed Int. No. 1174-A does not have a significant adverse impact on the environment.
- (33) **Res 2084 -** Environmental review conducted for Proposed Int. No. 1160-A.
- (34) **Res 2087 -** Setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1162-A.
- (35) **Res 2090 -** Approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.
- (36) **L.U. 961 & Res 2097 -** App. C 140047 ZSK submitted by Waterview at Greenpoint LLC Brooklyn, Community District 1, Council District 33.
- (37) **L.U. 962 & Res 2098 -** App. N 140046 ZRK submitted by the Department of City Planning

- Brooklyn, Community District 1, Council District 33.
- (38) L.U. 963 & Res 2099 - App. N 140048 ZAK submitted by Waterview at Greenpoint LLC Brooklyn, Community District 1, Council District 33.
- (39) L.U. 987 & Res 2100 - App. 20145201 TCM, Madison Global LLC, d/b/a Nello's, Manhattan, Community District 8, Council District 4.
- (40) L.U. 989 & Res 2101 - App. C 130040 MMK submitted by Long Island University Brooklyn, Community District 2, Council District 34.
- (41) L.U. 994 & Res 2105 - App C 140063 ZSK submitted by Coney Island Holdings LLC Brooklyn, Community District 13, Council District 47.
- (42) L.U. 995 & Res 2106 - App. N 140064 ZRK submitted by Coney Island Holdings LLC Brooklyn, Community District 13, Council District 47.
- (43) L.U. 996 & Res 2107 - App. C 140065 ZMK submitted by Coney Island Holdings, LLC Brooklyn, Community District 13, Council District 47.
- (44) L.U. 997 & Res 2108 - App. C 140066 PPK Brooklyn, Community District 13, Council District 47.
- (45) L.U. 998 & Res 2109 - App. C 140067 PQK Brooklyn, Community District 13, Council District 47.
- (46) L.U. 999 & Res 2110 - App. M 090107(B) MMK Brooklyn, Community District 13, Council District 47.
- (47) L.U. 1000 & Res 2102 - App. 20145224 HAM Manhattan, Community Board 3, Council District 1.
- (48) L.U. 1001 & Res 2103 - App. 20145225 HAM Manhattan, Community Board 11, Council District 9.
- (49) L.U. 1002 & Res 2104 - App. 20145155 TCM, Manhattan, Community District 2, Council District 1.
- (50) L.U. 1003 & Res 2096 - Mixed Income Program, Building 1A Compass Residence, 1512 Boone Avenue Bronx, CD 17.
- (51) Resolution approving various persons Commissioners of Deeds.

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such reports, and in addition, put the question whether the Council would re-adopt Int No. 951-A notwithstanding the objection of the Mayor; these items were decided in the affirmative by the following vote:

Affirmative – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gentile, Gibson, 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, Rivera, and the Speaker (Council Member Quinn) – 51.

The General Order vote recorded for this Stated Meeting was 51-0-0 as shown above with the exception of the votes for the following legislative items:

The following was the vote recorded for **Int No. 1056-A:**

Affirmative – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gibson, Gonzalez, Greenfield, Halloran, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mealy, Mendez, Nelson, Palma, Reyna, Rodriguez, Rose, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Wills, Oddo, Rivera, and the Speaker (Council Member Quinn). – 44.

Negative – Gentile and Mark-Viverito – 2.

Abstention – Crowley, Recchia, Richards, Ulrich, and Williams – 5.

The following was the vote recorded for **Int No. 1162-A:**

Affirmative – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gentile, Gibson, Gonzalez, Greenfield, 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, Rivera, and the Speaker (Council Member Quinn). – 48.

Negative – Halloran, Ignizio and Oddo – 3.

The following was the vote recorded for **Int No. 1204-A:**

Affirmative – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gibson, Gonzalez, Greenfield, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Palma, Reyna, Richards, Rodriguez, Rose, Vacca, Van Bramer, Vann, Weprin, Williams, Wills, Rivera, and the Speaker (Council Member Quinn) – 44.

Negative – Gentile, Halloran, Ignizio, Recchia, Ulrich, Vallone, Jr. and Oddo – 7.

The following was the vote recorded for **Int No. 1208-A:**

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

Negative – Halloran, Ignizio, Vallone, Jr., and Oddo. – 4.

The following was the vote recorded for **Int No. 1210-A:**

Affirmative – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gibson, Gonzalez, Greenfield, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Lappin, Levin, Mark-Viverito, Mealy, Mendez, Palma, Recchia, Reyna, Richards, Rodriguez, Rose, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Wills, Rivera, and the Speaker (Council Member Quinn) – 43.

Negative – Dilan, Gentile, Halloran, Ignizio, Nelson, Ulrich, Williams and Oddo – 8.

The following was the vote recorded for **Int No. 1217:**

Affirmative – Arroyo, Barron, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gentile, Gibson, Gonzalez, Greenfield, Halloran, Ignizio, Jackson, James, King, Koo, Koppell, Koslowitz, Lander, Levin, Mark-Viverito, Mealy, Mendez, Nelson, Palma, Recchia, Reyna, Richards, Rodriguez, Rose, Ulrich, Vacca, Vallone, Jr., Van Bramer, Vann, Weprin, Williams, Wills, Oddo, Rivera, and the Speaker (Council Member Quinn) – 50.

Abstention – Lappin – 1.

The following was the vote recorded for **LU No. 961 & Res No. 2097, LU No. 962 & Res No. 2098, LU No. 963 & Res No. 2099:**

Affirmative – Arroyo, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gentile, Gibson, 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, Rivera, and the Speaker (Council Member Quinn) – 50.

Negative – Barron – 1.

The following was the vote recorded for **LU No. 994 & Res No. 2105, LU No. 995 & Res No. 2106, LU No. 996 & Res No. 2107, LU No. 997 & Res No. 2108, LU No. 998 & Res No. 2109, and LU No. 999 & Res No. 2110:**

Affirmative – Arroyo, Brewer, Cabrera, Chin, Comrie, Crowley, Dickens, Dilan, Dromm, Eugene, Ferreras, Fidler, Garodnick, Gennaro, Gentile, Gibson, 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, Rivera, and the Speaker (Council Member Quinn) – 50.

Negative – Barron – 1.

The following 28 Introductions were sent to the Mayor for his consideration and approval: Int Nos. 172-A, 193-A, 635-A, 859-A, 867-A, 876-A, 891-A, 933-A, 1039-A, 1040-A, 1055-A, 1056-A (passed under a Message of Necessity), 1060-A (passed under a Message of Necessity), 1102-A, 1159-A, 1160-A, 1162-A (passed under a Message of Necessity), 1171-A (passed under a Message of Necessity), 174-A (passed under a Message of Necessity), 1177-A, 1186, 1204-A, 1208-A, 1210-A, 1213-A (passed under a Message of Necessity), 1217 (passed under a Message of Necessity), 1227, and 1228.

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. 1649

Report of the Committee on Youth Services in favor of approving Resolution recognizing October 11 as the “Day of the Girl Child” in New York City.

The Committee on Youth Services, to which the annexed resolution was referred on February 6, 2013 (Minutes, page 252), respectfully

REPORTS:

INTRODUCTION

On December 12, 2013, the Committee on Youth Services, chaired by Council Member Lewis A. Fidler, will hold a vote on Res. No. 1649, a resolution recognizing October 11 as the “Day of the Girl Child” in New York City.

RES. NO. 1649

Res. No. 1649 would explain that equality and universal access to education for every girl and boy are among the United Nations’ Millennium Development Goals supported by 189 countries, including the United States. The Resolution would also state that according to the United Nations, many children in developing countries start life without adequate means of nutrition, learning, and protection, but girls face particular challenges. Res. No. 1649 would also note that the United Nations Secretary General, Ban Ki-moon, has stated that “girls face discrimination, violence and abuse every day across the world.”

The Resolution would explain that on December 19, 2011, the United Nations General Assembly adopted Resolution 66/170 to declare October 11, 2012 as the first International Day of the Girl Child, to recognize girls’ right and the unique challenges girls face around the world. Res. No. 1649 would state that the term “girl child” is commonly used to distinguish those under age 18 from other young women. The Resolution would explain that the first International Day of the Girl Child focused on child marriage by highlighting that every year, 10 million girls under the age of 18 become child brides, many of whom are under the age of 16, which increases their risk of being abused and having an early or unwanted pregnancy.

Res. No. 1649 would note that studies show that education can delay and even prevent child marriage and increase girls’ chance of success. The Resolution

would explain that worldwide, girls face more barriers to education and often complete less schooling than male counterparts. The Resolution would also state that according to the National Women’s Law Center, one in four girls in America does not finish high school, and the dropout rate is even higher for girls of color.

The Resolution would note that the Day of the Girl Child highlights the worldwide injustices confronted by girls, including in the United States. Finally, Res. No. 1649 would recognize October 11 as the “Day of the Girl Child in New York City.”

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1649:)

Res. No. 1649

Resolution recognizing October 11 as the “Day of the Girl Child” in New York City.

By Council Members Koppell, Chin, Ferreras, Gennaro, James, Koo, Rose, Wills, Rodriguez and Brewer.

Whereas, Equality and universal access to education for every girl and boy are among the United Nations’ Millennium Development Goals supported by 189 countries, including the United States; and

Whereas, According to the United Nations, many children in developing countries start life without adequate means of nutrition, learning, and protection, but girls face particular challenges; and

Whereas, The United Nations Secretary General, Ban Ki-moon, has stated that “girls face discrimination, violence and abuse every day across the world;” and

Whereas, On December 19, 2011, the United Nations General Assembly adopted Resolution 66/170 to declare October 11, 2012 as the first International Day of the Girl Child, to recognize girls’ rights and the unique challenges girls face around the world; and

Whereas, The term “girl child” is commonly used to distinguish those under age 18 from other young women; and

Whereas, The first International Day of the Girl Child focused on child marriage by highlighting that every year, 10 million girls under the age of 18 become child brides, many of whom are under the age of 16, which increases their risk of being abused and having an early or unwanted pregnancy; and

Whereas, Studies show that education can delay and even prevent child marriage and increase girls’ chance of success; and

Whereas, Worldwide, girls face more barriers to education and often complete less schooling than male counterparts; and

Whereas, According to the National Women’s Law Center, one in four girls in America does not finish high school, and the dropout rate is even higher for girls of color; and

Whereas, The Day of the Girl Child highlights the worldwide injustices confronted by girls, including in the United States; now, therefore, be it

Resolved, That the Council of the City of New York recognizes October 11 as the “Day of the Girl Child in New York City”.

LEWIS A. FIDLER Chairperson; MELISSA MARK-VIVERITO, DARLENE MEALY, YDANIS A. RODRIGUEZ, PETER A. KOO, JUMAANE D. WILLIAMS, ANDY L. KING; DONOVAN J. RICHARDS; Committee on Youth Services, December 12, 2013.

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

Adopted unanimously by the Council by voice-vote.

Report for voice-vote Res. No. 1741

Report of the Committee on Civil Service and Labor in favor of approving a Resolution calling upon the United States Department of Labor to assume the cost of all Hurricane Sandy related unemployment claims through the Federal Disaster Unemployment Assistance Program and on the New York State Department of Labor to exempt businesses from paying unemployment claims due to Hurricane Sandy and all future disasters.

The Committee on Civil Service and Labor, to which the annexed resolution was referred on April 25, 2013 (Minutes, page 1173), respectfully

REPORTS:

INTRODUCTION

On December 17, 2017, the Committee on Civil Service and Labor, chaired by Council Member Michael Nelson, will conduct a second hearing on Res. No. 1741, a resolution calling upon the United States Department of Labor to assume the cost of all Hurricane Sandy related unemployment claims through the Federal Disaster Unemployment Assistance Program and on the New York State Department of Labor to exempt businesses from paying unemployment claims due to Hurricane Sandy and all future disasters. The Committee held a hearing on this resolution on December 12, 2013.

BACKGROUND

On October 29, 2013, the storm commonly known as Hurricane Sandy made landfall in New York City. Many businesses in low-lying areas and flood zones were physically damaged by the storm. Additionally, public transportation was suspended, causing many businesses to shut down for days. As such, employees of businesses across the City were left without work, some indefinitely if the business did not reopen.

In the weeks following Hurricane Sandy, business owners were encouraged by the New York State Department of Labor (DOL) to have any employees that were laid off on account of the storm, sign up for the federal Disaster Unemployment Assistance (“DUA”) program.¹ Unlike normal state unemployment benefits, which are ultimately counted against an employer’s insurance account and increase an employer’s insurance tax rate, DUA is paid for entirely by the Federal Emergency Management Administration (“FEMA”) and has no effect on an employer’s finances or tax rates.²

According to the DOL, those eligible for DUA include those who were injured during Hurricane Sandy and were unable to work, those whose places of work were destroyed or damaged during the storm, those unable to get to their workplace on account of the storm, those about to begin a job before the storm, but who have been unable to do so since, those who have become the primary breadwinners for their family due to the storm-induced death of the former head of household, and those whose place of work was taken over or shut down by the federal government in the aftermath of the storm.³ However, federal rules require that states must show that an unemployed person would be ineligible for normal state unemployment insurance before enrolling them in DUA.⁴ The DOL currently notes in its DUA fact sheet that the majority of applicants will likely be eligible for normal unemployment insurance.⁵

According to news reports, business owners were not made aware of this stipulation in the aftermath of the storm, and encouraged employees laid off on account of Hurricane Sandy to apply for federal unemployment benefits anyway.⁶ However, as former employees applied for these federal unemployment benefits, many have been found to be eligible for state benefits, placing an unexpected financial burden on their former employers, as high as \$750 per employee, according to some reports.⁷

ANALYSIS

The proposed resolution, Res. No. 1741, notes that many businesses struggled in the wake of Hurricane Sandy. The resolution explains the eligibility requirements for DUA outlined above, and details how many business owners reported that they were not made aware of the reality of these requirements in post-hurricane meetings with representatives of the DOL.

The resolution notes that the majority of unemployment claims received by New York State in the days and weeks following Hurricane Sandy were likely the direct result of the storm, and that placing an additional financial burden on businesses which were already negatively affected by the storm by requiring them to pay for their former employees’ unemployment benefits threatens New York City small businesses as they themselves attempt to recover from the storm.

The resolution calls on the federal DOL to pay for all unemployment claims which resulted from Hurricane Sandy through DUA, and calls upon the state DOL to exempt businesses from paying unemployment claims resulting from Hurricane Sandy and future disasters.

¹ Chris Bragg, “Biz Owners Slam Cuomo for Sandy Unemployment Bill,” Crain’s New York Business, Feb. 11, 2013, available at <http://www.craigslist.com/article/20130129/BLOGS04/301299997#>.

² *Id.*

³ New York State Department of Labor, “Fact Sheet: Unemployment Assistance Due to the Effects of Hurricane Sandy,” available at <http://www.labor.ny.gov/formsdocs/factsheets/pdfs/p814.pdf>.

⁴ Chris Bragg, “Biz Owners Slam Cuomo for Sandy Unemployment Bill,” Crain’s New York Business, Feb. 11, 2013, available at <http://www.craigslist.com/article/20130129/BLOGS04/301299997#>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1741:)

Res. No. 1741

Resolution calling upon the United States Department of Labor to assume the cost of all Hurricane Sandy related unemployment claims through the Federal Disaster Unemployment Assistance Program and on the New York State Department of Labor to exempt businesses from paying unemployment claims due to Hurricane Sandy and all future disasters.

By Council Members Reyna, Chin, Comrie, Dickens, Eugene, Fidler, Gentile, James, King, Lander, Mendez, Richards, Rose, Vann, Wills, Koppell, Nelson, Van Bramer, Brewer and Ulrich.

Whereas, On October 29, 2012, the storm known as Hurricane Sandy devastated many communities in New York City and the surrounding areas; and

Whereas, As the storm approached, public transportation service was suspended and many businesses were forced to close their doors and send their workers home early; and

Whereas, In addition to causing loss of life, halting public transportation, forcing school closures, and damaging infrastructure and houses of worship, the storm damaged and in some instances completely destroyed businesses located throughout the City; and

Whereas, Many of the businesses impacted by the storm remained closed for weeks which left their employees without work; and

Whereas, In the days after the storm, the New York State (“N.Y.S.”) Department of Labor provided several informational handouts at community forums and gatherings regarding Disaster Unemployment Assistance (“DUA”); and

Whereas, DUA is a federal program funded by the United States Department of Labor, that provides payments to people who live or work in a federally declared disaster area and who have lost work or income due to the disaster; and

Whereas, Although the federal government funds DUA, the N.Y.S. Department of Labor makes payments to those who qualify; and

Whereas, Employers were led to believe that their workers would be covered by this federal assistance program and were encouraged to have their workers apply; and

Whereas, However, according to articles published in Crain’s New York, business owners later found out that any worker that would qualify for regular unemployment insurance benefits would not qualify for DUA; and

Whereas, According to the N.Y.S. Department of Labor, whenever any claim for unemployment is filed it counts against an employer’s insurance account and increases the employer’s insurance tax rate; and

Whereas, It is safe to say that the majority of claims submitted in the days immediately following the storm were directly related to the disaster; and

Whereas, Businesses impacted by the storm have had many obstacles to surmount and should not be penalized as if they intentionally terminated workers; and

Whereas, The strength of the business community and the workers it employs is critical to New York City’s recovery from Hurricane Sandy as it has been to other devastating events; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Department of Labor to assume the cost of all Hurricane Sandy related unemployment claims through the Federal Disaster Unemployment Assistance Program and on the New York State Department of Labor to exempt businesses from paying unemployment claims due to Hurricane Sandy and all future disasters.

MICHAEL C. NELSON, Chairperson; JAMES F. GENNARO, MELISSA MARK-VIVERITO, ERIC A. ULRICH; Committee on Civil Service and Labor, December 17, 2013.

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

Adopted unanimously by the Council by voice-vote.

Report for voice-vote Res. No. 1954

Report of the Committee on Technology in favor of approving a Resolution calling upon the Port Authority of New York and New Jersey to amend its contract with Boingo Wireless, Inc. in order to provide free Internet access at its three major airports.

The Committee on Technology, to which the annexed resolution was referred on October 9, 2013 (Minutes, page 4156), respectfully

REPORTS:**1. INTRODUCTION**

On Wednesday, December 18, 2013, the Committee on Technology, chaired by Council Member Fernando Cabrera, will consider and vote on Proposed Resolution No. 1954, which calls upon the Port Authority of New York and New Jersey to amend its contract with Boingo Wireless, Inc. in order to provide free Internet access at its three major airports.

2. BACKGROUND

Since the advent of the wireless Internet, commonly referred to as “Wi-Fi,” system in 1999,¹ Internet providers have found numerous ways to adapt and implement Wi-Fi for travelers and mobile customers. Founded in 2001, Boingo Wireless, Inc. has been a key player in Wi-Fi for travelers at hotspots around the world, offering a range of services, from unlimited monthly data plans, to tiered pay-as-you go usage plans, to plans that are absolutely free.²

3. PORT AUTHORITY CONTRACT WITH BOINGO WIRELESS

The current 15-year contract between Boingo and the Port Authority of New York and New Jersey charges a fee for Wi-Fi usage at all three major New York area airports. Boingo offers the same tiered pricing structure at all three airports, charging one of \$4.95 per hour, \$7.95 for 24 hours, or \$9.95 for a month of Wi-Fi connectivity. No free option is offered, despite the prevalence of free Wi-Fi at airports throughout the United States and overseas.³

4. BOINGO’S INTERNET SERVICES AT OTHER AIRPORTS

Fifteen of the 20 busiest airports in the United States offer some form of free Wi-Fi connectivity.⁴ Boingo offers domestic free Wi-Fi services at Boston’s Logan International Airport, Denver International Airport, Nashville International Airport, and Raleigh-Durham International Airport.⁵ These are either limited by time or quality of connection, and are all supplemented by a premium plan that customers can opt to use in lieu of the free Wi-Fi offered.⁶ Additionally, Boingo offers similar free programs alongside their premium products at overseas airports including London Heathrow Airport, Rome’s Leonardo da Vinci-Fiumicino Airport, Sydney International Airport, and Calgary International Airport.⁷ Thus it is evident that Boingo’s business model can support a form of free Wi-Fi being offered at airports.

5. REASONS FOR HAVING FREE WI-FI ACCESS

New York City is particularly suited to free Wi-Fi access. Over 50 of the City’s parks and 36 subway stations currently offer free Wi-Fi, countless coffee shops, hotels and libraries in the City offer free Wi-Fi to patrons and customers, and entire neighborhoods in all five boroughs either have or are in the process of having free Wi-Fi coverage installed.⁸

Additionally, as the country’s largest transit hub, the New York area airports service more international passengers than any other city in the United States.⁹ Many of these international passengers travel with digital devices from their home countries that offer limited or no data connectivity in the United States.¹⁰ These passengers are currently forced to sign up for one of Boingo’s plans if they want to find directions to their final destination or to check in with friends and relatives at home. The lack of a free Wi-Fi option does these travelers a disservice by essentially requiring them to pay for a foreign Wi-Fi internet product immediately upon arriving in the United States.

6. CONCLUSION

The Port Authority of New York and New Jersey should renegotiate its contract with Boingo Wireless to include a wireless option to be more in line with the direction of Wi-Fi trends – both in New York City and internationally – and to recognize the difficulties faced by international passengers in the nation’s largest urban hub for international travel.

¹ See Press Release, Wi-Fi Alliance, Wireless Ethernet Compatibility Alliance Announces Independent Test Lab and Wi-Fi Technology Brand, (Sep. 15, 1999), available at <http://www.wi-fi.org/media/press-releases/wireless-ethernet-compatibility-alliance-weca-announces-independent-test-lab>.

² See *Airport Wi-Fi Access Chart: US*, AIRFAREWATCHDOG, available at <http://www.airfarewatchdog.com/blog/15775436/introducing-our-airport-wifi-access-chart> (last visited Dec. 11, 2013).

³ See *GGA Seeks Free Wi-Fi for New York Airports* TRAVEL AGENT CENTRAL (Sep. 5, 2013), available at <http://www.travelagentcentral.com/hub-cities/gga-seeks-free-wi-fi-new-york-airports-42402>.

⁴ See *id.*; see also Anne Kadet, *Caught in a Time Before Wi-Fi Was Free*, WALL ST. J.L. (Aug. 30, 2013, 11:03 PM), available at <http://online.wsj.com/news/articles/SB10001424127887323324904579045061129051846>.

⁵ See *supra* note 2.

⁶ See *supra* note 2.

⁷ See *Airport Wi-Fi Access Chart: International*, AIRFAREWATCHDOG, available at <http://www.airfarewatchdog.com/blog/15775436/introducing-our-airport-wifi-access-chart> (last visited Dec. 11, 2013);

⁸ See THE CITY OF NEW YORK, NEW YORK CITY’S DIGITAL LEADERSHIP 2013 ROADMAP 2-6 (2013).

⁹ See THE PORT AUTHORITY OF NY & NJ, 2012 AIRPORT TRAFFIC REPORT 41(2013), available at <http://www.panynj.gov/airports/pdf-traffic/ATR2012.pdf> (The region had roughly 37.7 million international passengers in 2012); see also THE PORT AUTHORITY OF NY & NJ, 2011 AIRPORT

TRAFFIC REPORT MEMORANDUM (2012), available at <http://www.panynj.gov/airports/pdf-traffic/ATR2011.pdf> (“The region’s international passenger total . . . set a record for most ever with 36.5 million”).

¹⁰ See *Strategic Insights on International Wi-Fi Roaming Services for Carriers*, SMARTER CONNECTIONS, available at <http://www.ipass.com/blog/report-strategic-insights-on-international-wi-fi-roaming-services-for-carriers>.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1954:)

Res. No. 1954

Resolution calling upon the Port Authority of New York and New Jersey to amend its contract with Boingo Wireless, Inc. in order to provide free Internet access at its three major airports.

By Council Members Brewer, Cabrera, Comrie, Jackson, James, Koo, Levin, Richards, Rose, Williams, Rodriguez, Vallone, Jr., Koppell, Van Bramer and Greenfield.

Whereas, In 1999, the Port Authority of New York and New Jersey signed a 15-year contract which gives Boingo Wireless, Inc. exclusive rights to provide wireless Internet access at LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport; and

Whereas, The contract can be renewed for another 10 years during a six-month window which began in August 2013; and

Whereas, Boingo currently charges \$4.95 per hour or \$7.95 for 24 hours for wireless Internet access at the three airports; and

Whereas, According to a July 2013 survey conducted by the Global Gateway Alliance, 15 of the 20 largest airports in the country provide free wireless Internet access and, despite being the largest airport system in the country, LaGuardia, JFK and Newark are three of the five busiest airports in the nation without free wireless Internet access; and

Whereas, Boingo already offers free advertising-support wireless Internet access at other locations, including Calgary International Airport; and

Whereas, Free wireless Internet access has become increasingly commonplace at various public spaces and facilities, reflecting our society’s growing reliance on consistent access to technology and the Internet for both work and leisure; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Port Authority of New York and New Jersey to amend its contract with Boingo Wireless, Inc. in order to provide free Internet access at its three major airports.

FERNANDO CABRERA, Chairperson; GALE A. BREWER, G. OLIVER KOPPELL, MARK S. WEPRIN; Committee on Technology, December 18, 2013.

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

Report for voice-vote Res. No. 1988-A

Report of the Committee on Governmental Operations in favor of approving, as amended, a Resolution calling on the New York State Assembly and New York State Senate to introduce and pass, and the Governor to sign, legislation requiring the Joint Committee on Public Ethics (JCOPE) to accept filings pursuant to the City’s lobbyist registration laws from lobbyists who are required to file by the State Lobbying Act with JCOPE solely due to their lobbying of New York City officials.

The Committee on Governmental Operations, to which the annexed amended resolution was referred on October 30, 2013 (Minutes, page 4479), respectfully

REPORTS:

(For text of report, please see the Override Report of the Committee for Consumer Report for Int No. 951-A printed in these Minutes)

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Res. No. 1988-A:)

Res. No. 1988-A

Resolution calling on the New York State Assembly and New York State Senate to introduce and pass, and the Governor to sign, legislation requiring the Joint Committee on Public Ethics (JCOPE) to accept filings pursuant to the City's lobbyist registration laws from lobbyists who are required to file by the State Lobbying Act with JCOPE solely due to their lobbying of New York City officials.

By The Speaker (Council Member Quinn) and Council Members Brewer, Chin, Koo, Koslowitz, Van Bramer, Koppell and Halloran (in conjunction with the Mayor).

Whereas, A lobbyist who lobbies in New York City is required to register under the City's lobbyist registration law (Lobbying Law) with the City Clerk and under the State Lobbying Act with the Joint Commission on Public Ethics; and

Whereas, Under the City's Lobbying Law, the lobbyist is generally required to file one statement of registration, six periodic reports and an annual report; and

Whereas, Under the City's Lobbying Law, clients are required to file a Client Annual Report; and

Whereas, Under the State Lobbying Act, lobbyists are required to file biennial registration statements and six bimonthly reports; and

Whereas, Under the State Lobbying Act, clients are required to file two semi-annual reports; and

Whereas, The 2006 amendments to the City's Lobbying Law specifically authorized the Clerk to conform the reporting periods of the City's periodic reports to the periods covered by the State's bi-monthly reports; and

Whereas, The City's Lobbying Law contain a more comprehensive list of activities which must be reported, including attempts to influence land use decisions which are not covered by the State Lobbying Act; and

Whereas, the State Lobbying Act requires lobbyists to register even if their lobbying is solely directed at municipal officials; and

Whereas, Testimony received by the joint Mayoral-Council New York City Lobbying Commission (Lobbying Commission), created pursuant to the 2006 reforms to the City's Lobbying Laws to review and make recommendations on strengthening the laws, indicates widespread agreement that a single system for lobbyist registration at both the City and State levels would simplify the registration process; and

Whereas, The Lobbying Commission in its final report urged the State to consider accepting City lobbyist filings from those lobbyists who are covered by the State Lobbying Act solely due to their lobbying of New York City officials; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Assembly and New York State Senate to introduce and pass, and the Governor to sign, legislation requiring the Joint Committee on Public Ethics (JCOPE) to accept and post online filings pursuant to the City's lobbyist registration laws from lobbyists who are required to file by the State Lobbying Act with JCOPE solely due to their lobbying of New York City officials.

GALE A. BREWER, Chairperson; ERIK MARTIN DILAN, PETER F. VALLONE, Jr., INEZ E. DICKENS; Committee on Governmental Operations, December 18, 2013.

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

Report for voice-vote Res. No. 2057

Report of the Committee on Immigration in favor of approving a Resolution calling upon the Secretary of the Department of Homeland Security to grant Temporary Protected Status designation of the Philippines and eligible Filipino nationals.

The Committee on Immigration, to which the annexed resolution was referred on December 10, 2013 (Minutes, page 5224), respectfully

REPORTS:

I. Background

On Tuesday, December 17, 2013, the Committee on Immigration, chaired by Council Member Daniel Dromm will hold a hearing on Resolution Number 1515 ("Res. No. 1515"), a resolution calling upon the United States Congress to pass and the President to sign S.1336, also known as the "Immigration Fraud Prevention Act

of 2011," which would impose criminal penalties on any person who falsely represents himself or herself as an immigration attorney or as an accredited immigration representative; Resolution Number 2059 ("Res. No. 2059"), a Resolution calling on the New York State Legislature to increase the criminal penalties for unscrupulous immigration service providers who violate state law; and Resolution Number 2057 ("Res. No. 2057"), a Resolution calling upon the Secretary of the Department of Homeland Security to grant Temporary Protected Status designation of the Philippines and eligible Filipino nationals. The Committee will also vote on Res. No. 2057. Those invited to testify include immigration law practitioners, community based organizations, and immigrant advocates.

II. Immigration Fraud

Immigrant New Yorkers account for three million¹ of the estimated 30 million immigrants living in the United States.² Many immigrants attempt to legalize their status so that they can work, support their families and become U.S. citizens. As they pursue these goals, immigrants generally rely on those they believe are immigration experts, such as attorneys or authorized immigrant service providers,³ to help them navigate complex laws and rules. Although some receive help from qualified professionals, others fall victim to immigration fraud with little or no recourse for future help.

Immigration fraud occurs when individuals falsely hold themselves out as being qualified to provide legal advice or services regarding immigration.⁴ In New York City, where 37 percent of the population is foreign-born,⁵ immigration fraud is prevalent. Dishonest immigrant service providers use false advertising to attract immigrant clients or charge significant amounts for services that they never provide.⁶ Victims of these practices may be irreparably harmed because of the failure to submit immigration papers in a timely manner.⁷ Efforts have been made at the federal, state, and local levels to combat immigration fraud,⁸ but advocates, immigration practitioners, and elected officials have repeatedly asked for more to be done.⁹

Res. No. 1515 calls on the United States Congress to pass and the President to sign the "Immigration Fraud Prevention Act of 2011" (S.1336) or similar legislation.¹⁰ Under the "Immigration Fraud Prevention Act of 2011," any person who falsely represents himself or herself as an immigration attorney or as an accredited immigration representative would be subject to criminal penalties. The passage of the "Immigration Fraud Prevention Act" or similar legislation could curb immigration fraud and provide justice for the victims of unscrupulous immigration service providers.

Res. No. 2059 calls on the New York State Legislature to increase the criminal penalties for unscrupulous immigration service providers who violate state law¹¹ from a class A misdemeanor to a felony in order to deter bad actors from engaging in immigration fraud.

III. Temporary Protected Status

Under federal law, the Department of Homeland Security ("DHS") may designate a foreign country for Temporary Protected Status ("TPS") under the following circumstances: (i) ongoing armed conflict; (ii) temporary effects of an environmental disaster; or (iii) other extraordinary and temporary conditions that prevent the country's nationals living in the United States from safely returning to their home country.¹² An immigrant is only eligible for TPS benefits if he or she (i) is a national of one of the designated countries; (ii) establishes a continuous physical presence and continuous residence in the U.S.; (iii) is not subject to one of the criminal, security related, or other bars to TPS; and (iv) applies for TPS benefits in a timely manner.¹³ TPS beneficiaries are not removable from the United States on the basis of their immigration status.¹⁴ Additionally, TPS beneficiaries may obtain work authorization, and may be granted travel authorization.¹⁵ Although TPS beneficiaries may apply for nonimmigrant status¹⁶ or some other forms of immigration relief, they will not be eligible for lawful permanent resident¹⁷ status or U.S. citizenship.¹⁸ The following countries are currently designated for TPS: El Salvador, Haiti, Honduras, Nicaragua, Somalia, Sudan, South Sudan, and Syria.¹⁹ DHS has granted TPS to nearly 300,000 immigrants from these countries.²⁰

On November 8, 2013, the Philippines was struck by a Category 5 typhoon, which led to the deaths of more than 5,000 people; displaced 700,000 Filipinos from their homes; and left 11 million people without basic necessities, such as food and shelter.²¹ It is estimated that it will cost nearly 14 billion dollars for the Philippines to recover from the damage caused by the typhoon.²² The Philippines is not prepared to care for its citizens as there is a fear of the spread of diseases, violence, and looting occurring in the country.²³ If DHS grants TPS to the Philippines, eligible Filipino nationals would be allowed to legally work and live in the United States without fear of deportation, affording them the opportunity to provide financial contributions to the Philippines. In light of the severity of the current living conditions in the Philippines and the danger that is posed on civilians, Res. No. 2057 calls for the Secretary of the Department of Homeland Security to grant Temporary Protected Status designation of the Philippines and eligible Filipino nationals.

¹ New York State Comptroller, *Report 8-2014: The Role of Immigrants in the New York City Economy*, 2 (Nov. 2013) http://osc.state.ny.us/reports/immigration/NYC_Immigration_Rpt_8-2014.pdf (last visited on Dec. 6, 2013).

² Center for American Progress, *The Facts on Immigration Today*, (July 6, 2012) <http://www.americanprogress.org/issues/immigration/report/2012/07/06/11888/the-facts-on-immigration-today/> (last visited on Dec 10, 2013).

³ The Board of Immigration Appeals ("BIA") administers the accreditation process that allows non-attorneys to provide legal services. The purpose of this accreditation is to make it clear to the public that the provider is trustworthy and that the provider can practice immigration law before the

Department of Homeland Security, immigration courts, and the BIA. U.S. Citizenship and Immigration Services, *Become an Authorized Provider* (last reviewed/updated 9/13/13), <http://www.uscis.gov/avoid-scams/become-authorized-provider> (last visited Dec. 16, 2013).

⁴ American Bar Association, *About Notario Fraud*, http://www.americanbar.org/groups/public_services/immigration/projects_initiatives/fightnotariofraud/about_notario_fraud.html (last visited on Dec. 13, 2013).

⁵ New York State Comptroller, *supra* note 1.

⁶ ABA, *supra* note 5.

⁷ *Id.*

⁸ See e.g., Press Release, NYC Dep't of Consumer Affairs, *NYC Department of Consumer Affairs and Mayor's Office of Immigrant Affairs Join the Departments of Homeland Security and Justice Along with the Federal Trade Commission to Announce Multi-Agency Effort to Combat Immigration Service Scams* (June 9, 2011), http://www.nyc.gov/html/dca/html/pr2011/pr_060911.shtml (last visited Dec. 17, 2013).

⁹ For example, NYS elected officials introduced two bills in 2013: the Immigration Provider Enforced Disclosure Information and Registration ("IMPEDIR") Act of 2013 (S. 1705/A.77) and the Immigrant Assistance Service Enforcement Act (S.786/A.158) were introduced in January 2013. At the federal level, immigration fraud is addressed in the "Border Security, Economic Opportunity, and Immigration Modernization Act" (S. 744), commonly referred to as the comprehensive immigration reform bill.

¹⁰ S. 1336 was never reintroduced in the 113th Congress, however, components of the bill were included in the "Border Security, Economic Opportunity, and Immigration Modernization Act" (S. 744), introduced on April 16, 2013 and passed by the Senate on June 27, 2013. See §§1545, 1546 of S. 744 available at <http://beta.congress.gov/bill/113th/senate-bill/744/text?q={%22search%22:%22immigration%20fraud%22}> (last visited Dec. 16, 2013).

¹¹ See N.Y. Gen. Bus. Law Art. 28-C.

¹² U.S. Citizenship and Immigration Services, *Temporary Protected Status*, http://www.uscis.gov/humanitarian/temporary-protected-status-deferred-enforced-departure/temporary-protected-status#Eligibility_Requirements (last modified 6/18/13).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ "Nonimmigrant status" is the term used to describe the status for individuals in the United States for a temporary period of time, whether it is for school, work, or travel. Berkeley International Office, *Nonimmigrant vs. Immigrant Status*, http://internationaloffice.berkeley.edu/nonimmigrant_vs_immigrant (last visited Dec. 6, 2013).

¹⁷ A "lawful permanent resident," commonly referred to as a "green card" holder, has been granted lawful permanent residence in the United States and has certain rights and responsibilities, such as the ability to own property, join certain branches of the Armed Forces, attend public colleges and universities, and apply to become U.S. citizens. U.S. Department of Homeland Security, *Annual Flow Report: U.S. Legal Permanent Residents: 2012* (Mar. 2012), 1, http://www.dhs.gov/sites/default/files/publications/ois_lpr_fr_2012_2.pdf (last visited Dec. 6, 2013).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Ann Corcoran, "Temporary" refugee should get legal residency says 6th Circuit Court of Appeals, *Refugee Resettlement Watch*, July 24, 2013, <http://refugeeresettlementwatch.wordpress.com/2013/07/24/temporary-refugee-should-get-legal-residency-says-6th-circuit-court-of-appeals> (last visited on Dec. 6, 2013).

²¹ Te-Ping Chen, Hames T. Aredy and James Hookway, *Typhoon Haiyan: How a Catastrophe Unfolded*, *The Wall Street Journal*, (Nov. 26, 2013) <http://online.wsj.com/news/articles/SB10001424052702304465604579217671422015220>, (last visited Dec. 6, 2013).

²² RELIEFWEB, *Philippines: Number of Damaged Houses Typhoon Haiyan (Yolanda) (as of 25 Nov. 2013)*, <http://reliefweb.int/map/philippines/philippines-number-damaged-houses-typhoon-haiyan-yolanda-25-november-2013> (last visited on Dec. 6, 2013).

²³ BBC News: *Asia, Fear of Disease in Typhoon Haiyan Aftermath*, Nov. 26 2013, <http://www.bbc.co.uk/news/world-asia-25102286> (last visited Dec. 16, 2013).

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 2057:)

Res. No. 2057

Resolution calling upon the Secretary of the Department of Homeland Security to grant Temporary Protected Status designation of the Philippines and eligible Filipino nationals.

By Council Members Eugene, Dromm, Van Bramer, Chin, Koo, Koppell, Mendez, Richards, Rose, Rodriguez, Williams and Brewer.

Whereas, Temporary Protected Status ("TPS") is a temporary immigration status granted to eligible nationals of designated countries; and

Whereas, Under section 244 of the Immigration and Nationality Act, the Secretary of the Department of Homeland Security ("DHS") may grant TPS to immigrants in the United States who are momentarily unable to securely return to their home country due to: (i) ongoing armed conflict; (ii) the temporary effects of an environmental disaster; or (iii) other extraordinary and temporary conditions; and

Whereas, Such immigrants may not be removed from the United States during the period in which such status is in effect; and

Whereas, On November 8, 2013, the Philippines was struck by a Category 5 typhoon, which caused extensive damage to 36 provinces and surrounding areas; and

Whereas, The National Disaster Risk Reduction and Management Council estimates that in wake of the typhoon, more than 5,000 people lost their lives, 11 million people have been affected and nearly 700,000 displaced; and

Whereas, The U.N. Office for the Coordination of Humanitarian Affairs states that 11.3 million people in the Philippines are without basic necessities such as food and shelter, or a means of providing for their families; and

Whereas, Weather is normally responsible for five billion dollars in property damage annually in the Philippines; however, following Typhoon Haiyan, damage estimates have reached 14 billion dollars; and

Whereas, According to the Pacific Disaster Center's initial reports, more than a million houses were damaged or destroyed in the Philippines by Typhoon Haiyan; and

Whereas, According to a November 13, 2013 BBC article, heightened security threats were becoming more prevalent as grocery stores and warehouses were being raided by looters searching for sources of food, with residents reporting a fear for their safety; and

Whereas, Hospitals, particularly within the hardest hit area such as the city of Tacloban, are out of critical medical supplies and are currently at capacity, unable to admit additional patients in desperate need of services; and

Whereas, Currently eight countries, El Salvador, Haiti, Honduras, Nicaragua, Somalia, Sudan, South Sudan, and Syria have been granted TPS; and

Whereas, An individual is only eligible for TPS benefits if he or she (i) establishes continuous physical presence and continuous residence in the United States; (ii) is not subject to one of the criminal, security-related, or other bars to TPS; and (iii) applies for TPS benefits in a timely manner; and

Whereas, An individual is not eligible for TPS if he or she (i) has been convicted of any felony or two or more misdemeanors committed in the United States; (ii) is a persecutor or subject to one of the bars to asylum; or (iii) is subject to criminal-related or terrorism-related grounds of inadmissibility for which a waiver is not available; and

Whereas, According to the U.S. Census Bureau, there are four million Filipinos living in the United States, many of whom reside in New York City; and

Whereas, Granting TPS to the Philippines would aid the estimated 270,000 undocumented Filipinos in the United States as well as another 300,000 on temporary visas according to the National Federation of Filipino American Associations; and

Whereas, In addition, it would allow such individuals to live and work in the United States for the duration of the designation since they are currently unable to safely return to their home country; and

Whereas, U.S. Senator Charles Schumer says it makes no sense to return Filipino immigrants residing in the U.S. back to a devastated country and the United States should grant TPS status until the Philippines is back on its feet; and

Whereas, The scope of the devastation caused by the earthquake will require a long-term rebuilding and redevelopment plan with support from the United States and the international community, and the magnitude of the typhoon's devastation has yet to be fully realized; and

Whereas, In an effort to provide humanitarian relief to the Philippines, Filipinos should be allowed to remain in the United States for protection from unsanitary and dangerous conditions while the effects of the typhoon are dealt with; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Secretary of the Department of Homeland Security to grant Temporary Protected Status designation of the Philippines and eligible Filipino nationals.

DANIEL DROMM, Chairperson; MATHIEU EUGENE, YDANIS A. RODRIGUEZ, JUMAANE D. WILLIAMS; Committee on Immigration, December 17, 2013.

Pursuant to Rule 8.50 of the Council, The President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing those in favor, the President Pro Tempore (Council Member Rivera) declared the Resolution to be adopted.

The following 2 Council Members formally voted against this item: Council Members Ignizio and Oddo.

The following Council Member formally abstained to vote on this item: Council Member Vallone, Jr.

Adopted by the Council by voice-vote.

INTRODUCTION AND READING OF BILLS

Int. No. 1215

By Council Members Brewer, Vacca, Cabrera, Chin, James, Koo, Koppell and Rose.

A Local Law to amend the administrative code of the city of New York, in relation to the prohibition of discrimination against interns.

Be it enacted by the Council as follows:

Section 1. 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 by adding a new subdivision 28 to read as follows:

28. The term "intern" shall mean an individual who performs work for an employer for the purpose of training if:

(a) the individual works for a fixed period of time at the end of which there is no expectation of employment;

(b) the individual performing the work is not entitled to wages for the work performed; and

(c) the work performed: (i) supplements training given in an educational environment that may enhance the employability of the intern; (ii) provides experience for the benefit of the individual performing the work; (iii) does not displace regular employees; and (iv) is performed under the close supervision of existing staff.

(d) For purposes of subdivisions 1, 3, 15, and 17 of section 8-107, and section 8-107.1 of this title, an "intern" is considered to be a "person" as defined in subdivision 1 of this section.

§2. This local law shall take effect upon enactment.

Referred to the Committee on Civil Rights.

Preconsidered Res. No. 2081

Resolution finding that the enactment of Proposed Int. No. 1174-A does not have a significant adverse impact on the environment and is consistent with the state environmental quality review act.

By Council Members Crowley and James.

Whereas, The enactment of Proposed Int. No. 1174-A is an "action" as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

Whereas, In accordance with section 5-03(d) of the City Environmental Quality Review ("CEQR") Rules of Procedure, the City Council and the Office of the Mayor are designated as co-lead agencies for local laws; and

Whereas, In accordance with section 5-03(d) of the CEQR Rules of Procedure, the City Council delegated its lead agency status to the Office of the Mayor, which in accordance with CEQR Rules of Procedure section 5-03(i), transferred its lead agency status to the New York City Fire Department, which considered the relevant environmental issues attendant to the enactment of Proposed Int. No. 1174-A; and

Whereas, After such consideration and examination of an Environmental Assessment Statement, the New York City Fire Department determined that a Negative Declaration should be issued; and

Whereas, The Council examined and considered the Negative Declaration that was prepared; now, therefore, be it

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

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

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

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

Adopted by the Council (preconsidered by the Committee on Fire and Criminal Justice Services).

Preconsidered Int. No. 1216

By Council Members Dickens, Gonzalez, Jackson, Mark-Viverito, Nelson and King.

A Local Law in relation to the naming of seven thoroughfares and public places, Hermena Rowe Street, Borough of Manhattan, Captain Dennis Morales Way, Borough of Brooklyn, Subhi Widdi Way, Borough of Brooklyn, Alexey Murzhenko Plaza, Borough of Manhattan, Pat Jones Way, Borough of Manhattan, Ariel Russo Place (4 Years Old), Borough of Manhattan and John E. Nikas Way, Borough of Brooklyn.

Be it enacted by the Council as follows:

Section 1. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Hermena Rowe Street	None	At the southwest

		corner of Adam Clayton Powell, Jr. Boulevard and 122 nd Street
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§2. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Captain Dennis Morales Way	None	At the intersection of 4 th Avenue and 36 th Street

§3. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Subhi Widdi Way	None	At the intersection of 6 th Avenue and 56 th Street

§4. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Alexey Murzhenko Plaza	None	At the northwest corner of Bennet Avenue and 181 st Street

§5. The following street name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Pat Jones Way	144 th Street	Between Hamilton Terrace and Convent Avenue

§6. The following street name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Ariel Russo Place (4 Years Old)	West 97 th Street	Between Amsterdam Avenue and Broadway

§7. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
John E. Nikas Way	None	At the intersection of East 12 th Street and Gravesend Neck Road

§8. This local law shall take effect immediately.

Re-referred back to the Committee on Parks and Recreation by the Council (preconsidered and approved by the Committee on Parks and Recreation).

Preconsidered Int. No. 1217

By Council Members Dickens, Gonzalez, Jackson, Mark-Viverito, Nelson and King.

A Local Law in relation to the naming of six thoroughfares and public places, Hermena Rowe Street, Borough of Manhattan, Captain Dennis Morales Way, Borough of Brooklyn, Subhi Widdi Way, Borough of Brooklyn, Pat Jones Way, Borough of Manhattan, Ariel Russo Place (4 Years Old), Borough of Manhattan and John E. Nikas Way, Borough of Brooklyn.

Be it enacted by the Council as follows:

Section 1. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Hermena Rowe Street	None	At the southwest corner of Adam Clayton Powell, Jr. Boulevard and

		122 nd Street
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§2. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Captain Dennis Morales Way	None	At the intersection of 4 th Avenue and 36 th Street

§3. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Subhi Widdi Way	None	At the intersection of 6 th Avenue and 56 th Street

§4. The following street name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Pat Jones Way	144 th Street	Between Hamilton Terrace and Convent Avenue

§5. The following street name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Ariel Russo Place (4 Years Old)	West 97 th Street	Between Amsterdam Avenue and Broadway

§6. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
John E. Nikas Way	None	At the intersection of East 12 th Street and Gravesend Neck Road

§7. This local law shall take effect immediately.

Adopted by the Council (preconsidered by the Committee on Parks and Recreation).

Int. No. 1218

By Council Members Eugene, James, Richards and Rose.

A Local Law to amend the administrative code of the city of New York, in relation to providing additional time to answer and/or pay any outstanding summonses, fines, or penalties for food and general vendor violations if such outstanding summonses, fines, or penalties are preventing renewal of a food or general vendor license or permit.

Be it enacted by the Council as follows:

Section 1. Paragraph 2 of subdivision a of section 17-317 of title 17 of the administrative code of the city of New York is amended to read as follows:

2. the applicant, licensee, permittee, its officers, directors, shareholders, members, managers or employees have been found guilty of four or more violations of this subchapter or any rules promulgated pursuant thereto within a two-year period or have been found guilty of a violation of the provisions of part fourteen of the state sanitary code or of the New York city health code, or the applicant, licensee, permittee, its officers, directors, shareholders, members, managers, or employees have pending any unanswered summonses or *unsatisfied fines or penalties* for violation of this subchapter or any rules promulgated pursuant thereto. *Notwithstanding the aforementioned, the commissioner may renew a food vendor license or permit if, before such license or permit expires, a licensee or permittee, or its officers, directors, shareholders, members, managers or employees, submits a request in writing to the commissioner for additional time to answer any unanswered summonses for violation of this subchapter or the regulations promulgated thereto, or to pay the total dollar amount of any unsatisfied fine or penalty for violation of this subchapter or any rules promulgated pursuant thereto and: (i) answers any unanswered summonses for violation of this subchapter or any rules promulgated pursuant thereto within thirty days of the expiration date of the license or permit; or (ii) pays the total dollar amount of any unsatisfied fine or penalty for violation of this subchapter or any rules promulgated pursuant thereto within one hundred twenty days of the expiration date of the license or permit.*

§ 2. Subdivision b of section 20-456 of title 20 of the administrative code of the city of New York is amended to read as follows:

b. The commissioner may refuse to issue or renew a license if the applicant has been found to have violated chapter one or subchapter one of chapter five of this title or the rules or regulations thereto, provided, however, that in the event of a conflict between the provisions of such chapter and subchapter and the provisions of this subchapter, the provisions of this subchapter shall prevail; has pending any unanswered summonses or unsatisfied fines or penalties for violation of this subchapter or the regulations promulgated thereto; or for any cause set forth in any other section of this chapter as a ground for suspension or revocation. *Notwithstanding the aforementioned, the commissioner may renew a general vendor license if before such license expires, the general vendor submits a request in writing to the commissioner for additional time to answer any unanswered summonses for violation of this subchapter or the regulations promulgated thereto, or to pay the total dollar amount of any unsatisfied fine or penalty for violation of this subchapter or any rules promulgated pursuant thereto and: (i) within thirty days of the expiration date of the license, a licensee answers any unanswered summonses for violation of this subchapter or the regulations promulgated thereto; or (ii) within one hundred twenty days of the expiration date of the license, a licensee pays the total dollar amount of any unsatisfied fine or penalty.*

§ 3. This local law shall take effect 120 days after it shall have been enacted into law; provided that the commissioner and the commissioner of the police department may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, promulgating rules.

Referred to the Committee on Consumer Affairs.

Res. No. 2082

Resolution calling upon the Rent Guidelines Board to hold, annually, at least one public hearing in each of New York City’s five boroughs to allow for public testimony from tenants in these communities before determining the annual adjustment of rents.

By Council Members Eugene, Brewer, Chin, James, Koppell, Richards and Rose.

Whereas, According to the 2011 Housing and Vacancy Survey (HVS), 74.9 percent of New York City’s total housing units are located in the Bronx, Brooklyn, Queens and Staten Island; and

Whereas, According to the 2011 HVS, approximately 45.4 percent of New York City’s total rental stock is rent-stabilized; and

Whereas, Section 26-510(b) of the New York City Administrative Code authorizes the Rent Guidelines Board (RGB) to determine the maximum level of annual rent adjustments for rent-stabilized apartments; and

Whereas, The RGB is required to hold one or more public hearings for the purpose of taking testimony and collecting information before determining the annual adjustment of rents; and

Whereas, Since 2005 the RGB has traditionally held one public hearing in Manhattan and a second public hearing in the Bronx, Brooklyn or Queens before determining the annual adjustment of rents; and

Whereas, The RGB recently eliminated the second, outer-borough public hearing and held only one public hearing, in Manhattan, before deciding the adjustment of rents for the period of October 1, 2013, through September 30, 2014; and

Whereas, The voices of tenants of rent-stabilized apartments are critical to the RGB’s annual rent-adjustment decision because any rent increase has a direct impact on their lives by affecting their housing cost and spending allocations; and

Whereas, Holding a public hearing in each of New York City’s five boroughs would help ensure that tenants of rent-stabilized apartments in all boroughs are heard by the RGB before it decides the annual adjustment of rents; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Rent Guidelines Board to hold, annually, at least one public hearing in each of New York City’s five boroughs to allow for public testimony from tenants in these communities before determining the annual adjustment of rents.

Referred to the Committee on Housing and Buildings.

Res. No. 2083

Resolution calling upon the United States Congress to direct the Federal Railroad Administration to conduct a comprehensive passenger rail safety study and to pass legislation implementing any safety recommendations resulting from the study.

By Council Members Eugene, Chin, James, Koo, Koppell, Richards and Rose.

Whereas, On December 1, 2013, a Metro-North Railroad train derailed near the Spuyten Duyvil station in the Bronx, killing 4 passengers and injuring more than 60 others; and

Whereas, Preliminary reports indicate that excessive speed entering a curve was the likely cause of the incident; and

Whereas, The train involved was a push-pull train being operated in push mode, meaning the locomotive was pushing the train from the rear and the engineer was operating the train from a cab in the front of the first passenger car, a common configuration on Metro-North and other commuter railroads; and

Whereas, Concerns about the safety of push trains in light of a deadly 2005 train crash in California led Congress to direct the Federal Railroad Administration (FRA) to conduct a study of the issue; and

Whereas, The resulting FRA report found no “statistically significant difference” between the derailment histories of push and pull trains; and

Whereas, Although the report did find a higher fatality rate in push trains compared to pull trains, it did not recommend the discontinuation of push trains in commuter service, noting that pull trains have the potential to be more dangerous in certain types of incidents; and

Whereas, The findings of the report should be updated to reflect incidents that have occurred since it was published and with a wider focus on all train incidents, not just highway-rail grade crossing collisions; and

Whereas, Like many trains, the Metro-North train that crashed did not have seatbelts; and

Whereas, The FRA should study the potential effectiveness of seatbelts in preventing injuries and deaths during train collisions and derailments; and

Whereas, A comprehensive passenger rail safety study which examines every aspect of the safety of passenger trains, including the use of push trains and the potential effectiveness of seatbelts, should be conducted by the FRA; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to direct the Federal Railroad Administration to conduct a comprehensive passenger rail safety study and to pass legislation implementing any safety recommendations resulting from the study.

Referred to the Committee on Transportation.

Preconsidered Res. No. 2084

Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1160-A.

By Council Members Gennaro, James and Koo.

Whereas, The enactment of Proposed Int. No. 1160-A is an “action” as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

Whereas, An Environmental Assessment Statement for this bill was prepared by the Department of Environmental Protection, the lead agency designated pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review; and

Whereas, The Environmental Assessment Statement for this bill was prepared pursuant to Article 8 of the New York State Environmental Conservation Law, section 617.7 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review; and

Whereas, The Council, as an involved agency, has considered the relevant environmental issues as documented in the Environmental Assessment Statement attendant to such enactment and in making its findings and determinations under the Rules of Procedure for City Environmental Quality Review and the State Environmental Quality Review Act, the Council has relied on that Environmental Assessment Statement; and

Whereas, After such consideration and examination, the Council has determined that a Negative Declaration should be issued; and

Whereas, The Council has examined, considered and endorsed the Negative Declaration that was prepared; now, therefore, be it

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

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

(2) as documented in the annexed Environmental Assessment Statement, the proposed action is one which will not result in any significant adverse environmental impacts; and

(3) the annexed Negative Declaration constitutes the written statement of facts and conclusions that form the basis of this determination.

Adopted by the Council (preconsidered by the Committee on Environmental Protection).

Res. No. 2085

Resolution calling upon the New York State Legislature to pass and the Governor to sign legislation revising the standard of proof used by the New York City Housing Authority to determine eligibility for housing based upon remaining family member status.

By Council Members Jackson, Brewer, Chin, James, Mendez and Rose.

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, In some instances, an individual can continue to legally reside in (succeed to) a NYCHA apartment when the leaseholder permanently leaves the apartment or passes away if they qualify as a Remaining Family Member (“RFM”); and

Whereas, Under existing rules, the individual seeking such status must have the legal capacity to sign a lease, pass a criminal background check, and have a verifiable income on which to calculate rent; and

Whereas, An individual is considered a RFM if they were authorized to reside in the apartment at the time the leaseholder moved in, were added through family growth, or received the development housing manager’s written permission to permanently join the household; and

Whereas, An individual requesting permission to permanently join the household must be either the tenant’s spouse or registered domestic partner, parent, grandparent, grandchild, child, or sibling; and

Whereas, If permission to permanently reside in an apartment is granted, the RFM claimant must reside in the apartment for one year immediately prior to the date the leaseholder permanently leaves the apartment or passes away in order to be eligible to succeed a lease; and

Whereas, Many individuals are unsuccessful in claiming RFM status because they are either unaware of the extensive requirements which must be met including NYCHA’s definition of family and are consequently evicted and forced to vacate the apartment, oftentimes leaving them with nowhere else to go; and

Whereas, Under New York State law, for rent stabilized and rent controlled apartments, a family member has the right to succession if they resided with the leaseholder as a primary resident in the apartment for two years immediately prior to the date the leaseholder permanently leaves the apartment or passes away; and

Whereas, State law defines a family member as either a tenant’s spouse or registered domestic partner, parent, grandparent, grandchild, child, sibling, or any other person residing with the tenant in the housing accommodation as a primary resident, who can prove emotional and financial commitment and interdependence between such person and the tenant; and

Whereas, On January 25, 2013, Assembly Member Keith Wright (D-Manhattan) introduced A.3445, legislation that would amend the public housing law to allow a remaining family member to prove succession to a NYCHA apartment under the same standards of proof provided for under state law relating to rent stabilized and rent controlled apartments; and

Whereas, This legislation would alleviate the difficulty encountered by individuals seeking to establish succession rights to a NYCHA apartment by aligning NYCHA’s eligibility requirements with current state law for rent stabilized and rent controlled apartments; 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 revising the standard of proof used by the New York City Housing Authority to determine eligibility for housing based upon remaining family member status.

Adopted by the Council (preconsidered by the Committee on Environmental Protection; for text of the Negative Declaration, please see the attachment to the resolution following the Report of the Committee on Environmental Protection for Res No. 2084 printed in these Minutes).

Res. No. 2086

Resolution calling upon the New York City Department of Education to establish a comprehensive college preparation program, based on the college readiness model proposed by the Urban Youth Collaborative, to improve and expand college access for all students.

By Council Members Jackson, Brewer, James, Koo, Mendez and Rose.

Whereas, The connection between a college degree and economic stability has been exhaustively documented, making college access and preparation a racial and economic justice issue; and

Whereas, Across the United States there is a growing emphasis on schools preparing students to be college and career ready; and

Whereas, Forty-five states, including New York, have adopted the Common Core State Standards, which are designed to reflect the knowledge and skills that young people need for success in college and careers; and

Whereas, The New York City Department of Education (DOE) already includes college readiness metrics as part of the Progress Reports used to evaluate schools; and

Whereas, Since 2011-12, Progress Reports also include postsecondary enrollment rate data, which is the percentage of students who graduate and have enrolled in a two- or four-year college, vocational program, or public service program such as the military or AmeriCorps; and

Whereas, According to DOE data released in November 2013, only 49.7 percent of the class of 2012 enrolled in a two- or four-year college, vocational program, or public service program after graduation; and

Whereas, The DOE should do more to help schools improve their college readiness and college enrollment rates; and

Whereas, The Urban Youth Collaborative (UYC), NYC's largest youth-led organization, has created a set of proposals to ensure that high schools serving low-income youth of color meet the new DOE standards for college enrollment; and

Whereas, UYC's "Get Us To College" platform proposes that the DOE launch a systemwide assessment of what schools are currently doing to support students through the college process and make that assessment public; and

Whereas, UYC also recommends that the DOE create an early warning system so that all high school students know how many credits they have, what classes they should be taking to prepare for college, and whether they are on track for graduation and college; and

Whereas, Further, UYC proposes that school guidance counselors should have a maximum of 250 students on their caseload and, in addition, that every school should have one well-trained college counselor for every 100 seniors, who starts working with students as early as 9th grade; and

Whereas, Student Success Centers (SSCs), which are located in several City high schools, train high school students to help other students navigate every step of the college process, and have significantly improved college acceptances and financial aid packages, played a critical role in creating school-wide "college going cultures" and have effectively served undocumented students; and

Whereas, UYC calls on the DOE to maintain support for the existing SSCs and to launch additional ones at low-performing multi-campus high schools; and

Whereas, According to the Institute for Student Achievement, Distributive Guidance is a proven model of teachers supporting students through the college process in advisories; and

Whereas, UYC also calls on the DOE to ensure that schools using the Distributive Guidance model provide teachers with ongoing training, adequate time to fulfill their college support role, and the necessary resources for the program; and

Whereas, The Summer Bridge to College program, as well as similar programs, train college students to return to their high schools to assist new and prospective high school graduates with completing financial aid documents, registering for classes, filling out paperwork, and staying on track to start college in the fall; and

Whereas, UYC also proposes that the DOE provide funding and support to high schools to implement similar "bridge to college" programs at all NYC high schools; and

Whereas, Students in New York City's public schools would benefit from implementation of UYC's "Get Us To College" proposals to support students through the college application process and prepare them to enroll in college; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education to establish a comprehensive college preparation program, based on the college readiness model proposed by the Urban Youth Collaborative, to improve and expand college access for all students.

Referred to the Committee on Education.

Preconsidered Res. No. 2087

Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1162-A.

By Council Members James, Mendez and Rose.

Whereas, The enactment of Proposed Int. No. 1162-A is an "action" as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

Whereas, An Environmental Assessment Statement for this bill was prepared on behalf of the Office of the Mayor and the Council, which are co-lead agencies

pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review; and

Whereas, The Environmental Assessment Statement for this bill was prepared pursuant to Article 8 of the New York State Environmental Conservation Law, section 617.7 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review; and

Whereas, The Council, as a co-lead agency, has considered the relevant environmental issues as documented in the Environmental Assessment Statement attendant to such enactment and in making its findings and determinations under the Rules of Procedure for City Environmental Quality Review and the State Environmental Quality Review Act, the Council has relied on that Environmental Assessment Statement; and

Whereas, After such consideration and examination, the Council has determined that a Negative Declaration should be issued; and

Whereas, The Council has examined, considered and endorsed the Negative Declaration that was prepared; now, therefore, be it

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

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

(2) as documented in the annexed Environmental Assessment Statement, the proposed action is one which will not result in any significant adverse environmental impacts; and

(3) the annexed Negative Declaration constitutes the written statement of facts and conclusions that form the basis of this determination.

Adopted by the Council (preconsidered by the Committee on Sanitation and Solid Waste Management).

Int. No. 1219

By Council Members Koslowitz and Cabrera.

A Local Law to amend the administrative code of the city of New York, in relation to exempting licensed plumbers from registering with the business integrity commission.

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 16-505 of chapter one of title sixteen-a of the administrative code of the city of New York is amended to read as follows:

b. It shall be unlawful for any person to remove, collect or dispose of trade waste that is generated in the course of operation of such person's business, or to operate as a trade waste broker, without first having registered with the commission. Nothing in this subdivision shall be construed to require registration with the commission of (i) a commercial establishment required to provide for the removal of waste pursuant to section 16-116 of this code in order for such establishment to remove recyclable materials generated in the course of its own business to a location owned or leased by such establishment for the purpose of collecting or storing such materials for sale or further distribution; (ii) an owner or managing agent of a building in order to remove recyclable materials generated by commercial tenants within such building to a central location within such building for the purpose of collecting or storing such materials for sale or further distribution; [or] (iii) an owner of an establishment required to provide for the removal of waste pursuant to section 16-116 of this code in order to transport beverage containers, as such term is defined in section 27-1003 of the environmental conservation law, or any other recyclable material generated in the course of operation of its own business, to a redemption center, as such term is defined in section 27-1003 of such law, or to any other place where payment will be received by the commercial establishment for such materials; or (iv) a master plumber licensed pursuant to section 28-408.1 of this code that is engaged in the removal or opening of the pavement of a public street pursuant to a permit issued by the commissioner of the department of transportation in accordance with section 19-102 of this code. Notwithstanding any other provision of this subdivision, a business granted an exemption from the requirement for a license pursuant to subdivision a of this section shall be thereupon issued a registration pursuant to this subdivision.

§ 2. This local law shall take effect immediately.

Referred to the Committee on Consumer Affairs.

Int. No. 1220

By Council Members Lander, Brewer, Chin, James, Mendez, Richards and Rose.

A Local Law to amend the administrative code of the city of New York, in relation to providing fair access to case records for public assistance applicants and recipients.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-136 to read as follows:

§ 21-136. *Fair Access to Records.*

a. *Definitions. For the purposes of this section, the following terms shall have the following meanings:*

1. *"Benefits center" shall mean any office operated by the New York city department of social services/human resources administration in which individuals and/or families may apply for and/or receive public assistance.*

2. *"Public assistance" shall mean safety net assistance and family assistance provided by the New York city department of social services/human resources administration.*

3. *"Case records" shall mean all written material concerning an applicant or recipient, including the application form, the case history, budget and authorization forms, medical, resource and financial records.*

b. *The department shall provide any applicant or recipient of public assistance instantaneous access to his or her entire case records in all benefits centers at no cost via public computerized terminals. Such terminals shall be equipped to provide such applicant or recipient with a printout of the date, time and reason for his or her visit to the benefits center.*

§2. This local law shall take effect ninety days after it is enacted into law, provided that the commissioners may take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the adoption of any necessary rules.

Referred to the Committee on General Welfare.

Int. No. 1221

By Council Members Lander, Chin, James, Mendez and Rose.

A Local Law to amend the administrative code of the city of New York, in relation to the number of unrelated persons who can live together in a dwelling.

Be it enacted by the Council as follows:

Section 1. Subparagraph c of paragraph four of section 27-2004 of the administrative code of the city of New York is amended to read as follows:

4. A family is

(c) Not more than [three] *four* unrelated persons occupying a dwelling unit and maintaining a common household; or

§2. This bill shall take effect within ninety days after its enactment.

Referred to the Committee on Housing Buildings.

Int. No. 1222

By Council Members Lander, Brewer, Chin, James, Koo, Mendez, Richards and Rose.

A Local Law to amend the New York city charter, in relation to requiring the department of small business services to include in all contracts for the provision and administration of discretionary economic development benefits a workforce recruitment and outreach program.

Be it enacted by the Council as follows:

Section 1: Paragraph b of subdivision 1 of section 1301 of the New York City Charter is amended to read as follows:

b. to serve as liaison for the city with local development

corporations, other not-for-profit corporations and all other entities involved in economic development within the city. In furtherance of this function, the department shall include in any contract with a local development corporation *or not-for-profit corporation* under which such local development corporation *or not-for-profit corporation* is engaged in providing or administering economic development benefits on behalf of the city and expending city capital appropriations in connection therewith, a requirement that such local development corporation *or not-for-profit corporation* (1) submit to the mayor, the council, the city comptroller, the public advocate and the borough presidents by

January 31 of each year, a report for the prior fiscal year in the form prescribed hereunder with regard to projected and actual jobs created and retained in connection with any project undertaken by such local development corporation *or not-for-profit corporation* for the purpose of the creation or retention of jobs, whether or not such project involves the expenditure of city capital appropriations, if in connection with such project assistance to a business entity was provided by such local development corporation *or not-for-profit corporation* in the form of a loan, grant or tax benefit in excess of one hundred fifty thousand dollars, or a sale or lease of city-owned land where the project is estimated to retain or create not less than twenty-five jobs. The report shall be for the period commencing on the date that the project agreement and any other documents applicable to such project have been executed through the final year that such entity receives assistance for such project, except that, as to projects consisting of a lease or sale of city-owned land, each annual report shall include only (1) a list of each existing lease, regardless of when such lease commenced, and a list of each sale of city-owned land that closed on or after January 1, 2005, and (2) for such leases or sales, any terms or restrictions on the use of the property, including the rent received for each leased property in the prior fiscal year, and for sales, the price for which the property was sold and any terms or restrictions on the resale of the property, and need not include any other information with regard to such lease or sale of a type required for reports for other projects hereunder. Information on any such lease shall be included until the lease terminates and information on sales of city-owned land shall be included for fifteen years following closing. The report, other than for leases or sales of city-owned land, shall contain, for the prior fiscal year, the following information with respect thereto: (i) the project's name; (ii) its location; (iii) the time span over which the project is to receive any such assistance; (iv) the type of such assistance provided, including the name of the program or programs through which assistance is provided; (v) for projects that involve a maximum amount of assistance, a statement of the maximum amount of assistance available to those projects over the duration of the project agreement, and for those projects that do not have a maximum amount, the current estimated amount of assistance over the duration of the project agreement, the amount of tax exempt bonds issued during the current reporting year and the range of potential cost of those bonds; project assistance to be reported shall include, but shall not be limited to, PILOT savings, which shall be defined for the purposes of this paragraph as the difference between the PILOT payments made and the property tax that would have been paid in the absence of a PILOT agreement, the amount of mortgage recording fees waived, related property tax abatements, sales tax abatements, the dollar value of energy benefits and an estimated range of costs to the city of foregone income tax revenues due to the issuance of tax exempt bonds; (vi) the total number of employees at all sites covered by the project at the time of the project agreement including the number of permanent full-time jobs, the number of permanent part-time jobs, the number of full-time equivalents, and the number of contract employee where contract employees may be included for the purpose of determining compliance with job creation or retention requirements; (vii) the number of jobs that the entity receiving benefits is contractually obligated to retain and create over the life of the project, except that such information shall be reported on an annual basis for project agreements containing annual job retention or creation requirements, and, for each reporting year, the base employment level the entity receiving benefits agrees to retain over the life of the project agreement, any job creation scheduled to take place as a result of the project, and where applicable, any job creation targets for the current reporting year; (viii) the estimated amount, for that year and cumulatively to date, of retained or additional tax revenue derived from the project, excluding real property tax revenue other than revenue generated by property tax improvements; (ix) the amount of assistance received during the year covered by the report, the amount of assistance received since the beginning of the project period, and the present value of the future assistance estimated to be given for the duration of the project period; (x) for the current reporting year, the total actual number of employees at all sites covered by the project, including the number of permanent full-time jobs, the number of permanent part-time jobs, the number of contract jobs, and, for entities receiving benefits that employ two hundred fifty or more persons, the percentage of total employees within the "exempt" and "non-exempt" categories, respectively, as those terms are defined under the United States fair labor standards act, and for employees within the "non-exempt" category, the percentage of employees earning up to twenty-five thousand dollars per year, the percentage of employees earning more than twenty-five thousand per year up to forty-thousand dollars per year and the percentage of employees earning more than forty thousand dollars per year up to fifty thousand dollars per year; (xi) whether the employer offers health benefits to all full-time employees and to all part-time employees; (xii) for the current reporting year, for employees at each site covered by the project in the categories of industrial jobs, restaurant jobs, retail jobs, and other jobs, including all permanent and temporary full-time employees, permanent and temporary part-time employees, and contract employees, the number and percentage of employees earning less than a living wage, as that term is defined in section 134 of title 6 of the administrative code of the city of New York. *The reports with regard to projects for which assistance was received prior to July 1, 2012 need only contain such information required by this paragraph as is available to the city, can be reasonably derived from available sources, and can be reasonably obtained from the business entity to which assistance was provided;* (xiii) for the current reporting year, with respect to the entity or entities receiving assistance and their affiliates, the number and percentage of employees at all sites covered by the project agreement who reside in the city of New York. For the purposes of this subparagraph, "affiliate" shall mean (i) a business entity in which more than fifty percent is owned by, or is subject to a power or right of control of, or is managed by, an entity which is a party to an active project agreement, or (ii) a business entity that owns more than fifty percent

of an entity that is party to an active project agreement or that exercises a power or right of control of such entity; (xiv) a projection of the retained or additional tax revenue to be derived from the project for the remainder of the project period; (xv) a list of all commercial expansion program benefits, industrial and commercial incentive program benefits received through the project agreement and relocation and employment assistance program benefits received and the estimated total value of each for the current reporting year; (xvi) a statement of compliance indicating whether, during the current reporting year, the local development corporation *or not-for-profit corporation* has reduced, cancelled or recaptured benefits for any company, and, if so, the total amount of the reduction, cancellation or recapture, and any penalty assessed and the reasons therefore; (xvii) for business entities for which project assistance was provided by such local development corporation *or not-for-profit corporation* in the form of a loan, grant or tax benefit of one hundred fifty thousand dollars or less, the data should be included in such report in the aggregate using the format required for all other loans, grants or tax benefits; and (xviii) an indication of the sources of all data relating to numbers of jobs. For projects in existence prior to the effective date of this local law, information that business entities were not required to report to such local development corporation *or not-for-profit corporation* at the time that the project agreement and any other documents applicable to such project were executed need not be contained in the report.

The report shall be submitted by the statutory due date and shall bear the actual date that the report was submitted. Such report shall include a statement explaining any delay in its submission past the statutory due date. Upon its submission, the report shall simultaneously be made available in electronic form on the website of the local development corporation *or not-for-profit corporation* or, if no such website is maintained, on the website of the city of New York, provided that reports submitted in 2012 or after shall simultaneously be made available in a commonly available non-proprietary database format on the website of the local development corporation *or not-for-profit corporation* or, if no such website is maintained, on the website of the city of New York, except that any terms and restrictions on the use or resale of city-owned land need not be included in such non-proprietary database format, and provided further that with respect to the report submitted in 2012 in the commonly available non-proprietary database format, the local development corporation *or not-for-profit corporation* shall include, in such format, the data included in the reports for the period from July 1, 2005 to June 30, 2010. Reports with regard to projects for which assistance was rendered prior to July 1, 2005, need only contain such information required by this subdivision as is available to the local development corporation can be reasonably derived from available sources, and can be reasonably obtained from the business entity to which assistance was provided, (2) *develop a targeted hiring and workforce development program customized for each project and require the entity receiving benefits for the project to submit a written plan that includes goals for the hiring, retention, advancement and training of persons living within the community district or districts in which the project will be located who have annual income below 200% of the poverty level as determined by the New York city center for economic opportunity poverty measure or another similar measurement. The hiring and workforce development program shall require the entity receiving benefits for the project to collaborate with any city agency and local employment programs chosen by the local development corporation or not-for-profit corporation related to the implementation of the program. The plan shall also contain programmatic details including when various aspects of such plan shall be implemented along with record keeping and monitoring requirements and any other information deemed relevant by the local development or not-for-profit corporation to the goals of the program. All agreements with an entity receiving benefits for a project shall require such entity to exercise its best efforts at achieving the goals of the hiring and workforce development program and its accompanying plan.*

b-1. By March 1, 2007, and by March 1 every two years thereafter, the local development corporation *or not-for-profit corporation*, in consultation with the speaker of the city council and other persons selected jointly by the mayor and the speaker of the city council, who have extensive experience and knowledge in the fields of finance, economics, and public policy analysis, shall evaluate the methodology employed for making the determinations required for this report and generate recommendations, where appropriate, on the methodology by which projects receiving economic development subsidies are evaluated. The department shall present to the [mayor] mayor and the speaker no later than October 1 of every year in which such evaluation is required, a report containing such recommendations as are presented as a result of this review.

§2. This local law shall take effect immediately upon enactment.

Referred to the Committee on Economic Development.

Int. No. 1223

By Council Members Lander, Brewer, Chin, James, Mendez, Richards and Rose.

A Local Law in relation to creating a food policy council to be charged with advising city agencies on programs that are aimed at ending hunger, increasing local procurement of food, and increasing a healthy diet for New York city residents and school children.

Be it enacted by the Council as follows:

Section 1. a. There shall be a food policy council to develop comprehensive food policies and to advise city agencies on issues that affect municipal food policies in New York city.

b. Such food policy council shall consist of fifteen members as follows:

i. Eight members shall be appointed by the mayor, provided that appointees will have backgrounds in the following areas: anti-hunger; public health; environmental sustainability; community gardening; labor; food manufacturing; food delivery; and food wholesale and retail.

ii. Seven members shall be appointed by the speaker of the council, provided that appointees will have backgrounds in the following areas: finance; education; child welfare; health promotion; urban agriculture; food justice; and public assistance advocacy.

iii. At its first meeting, the food policy council shall select a chairperson from among its members by a majority vote of the food policy council.

c. Each member shall serve for a term of four years to commence after the final member of the food policy council is appointed. Any vacancies in the membership of the food policy council shall be filled in the same manner as the original appointment. A person filling such vacancy shall serve for the unexpired portion of the term of the succeeded member.

d. No member of the food policy council shall be removed from office except for cause and upon notice and hearing by the appropriate appointing official.

e. Members of the food policy council shall serve without compensation and shall meet as necessary.

f. The food policy council shall issue a report to the mayor and the speaker of the council no later than twelve months after the final member of the food policy council is appointed. Such report shall include recommendations on the following areas including, but not limited to:

i. Reducing hunger;

ii. Improving nutrition and reducing obesity;

iii. Increasing the local procurement of food;

iv. Reducing food desert areas;

v. Improving work conditions and job quality of food workers;

vi. Reducing food and food packaging waste;

vii. Increasing healthy diets of New York city residents and school children.

g. The food policy council shall meet quarterly following the publication of the report to review progress on the recommendations of the report. The food policy council shall issue annual updates of the status of recommendations to the mayor, city council and public.

h. The food policy council shall be empowered to issue reports on municipal food policies in addition to the report described in subdivision f of this local law.

§2. This local law shall take effect immediately.

Referred to the Committee on General Welfare.

Int. No. 1224

By Council Members Lander, Brewer, Chin, James and Mendez.

A Local Law to amend the administrative code of the City of New York, in relation to information required to be provided to tenants of certain interim multiple dwellings by owners.

Be it enacted by the Council as follows:

Section 1. Title 27 of the administrative code of the city of New York is amended by adding a new chapter 4 to read as follows:

CHAPTER 4

INFORMATION REQUIRED TO BE PROVIDED TO TENANTS OF CERTAIN INTERIM MULTIPLE DWELLINGS.

§27-4000. *Written notice to tenants of certain interim multiple dwellings. Owners of interim multiple dwellings registered with the New York city loft board in accordance with article 7-C of the multiple dwelling law and located in the districts listed below must provide written notice to all tenants informing them that they live in a non-conforming building and that manufacturing businesses in such districts are allowed to operate as-of-right. Such written notice must be immediately mailed to all current tenants and provided in the form of a lease rider upon the offering of a lease to any current or new tenant.*

C8, M1-1, M1-2, M1-3, M1-4, M1-5, M1-6, M2, M3, MID

Special Garment Center

College Point Special District

Coney Island Mixed Use Special District

Long Island City Mixed Use Special District

Hunts Point Special District

§2. This local law shall take effect immediately.

Referred to the Committee on Housing and Buildings.

Int. No. 1225

By Council Members Lander, Chin and James.

A Local Law to amend the administrative code of the city of New York, in relation to special trade waste removal districts.

Be it enacted by the Council as follows:

Section 1. Section 16-523 of the administrative code of the city of New York is amended to read as follows:

§16-523 Special trade waste removal districts; designation; agreement. a. [The] *On or before July first, two thousand fourteen, the* commission shall by rule designate [no more than] *at least* two areas of the city in commercial areas within different boroughs to participate in a pilot project as special trade waste removal districts. In making any such designation, the commission shall consider:

1. the number and types of commercial establishments within the proposed district;

2. the amount and types of waste generated by commercial establishments within the proposed district;

3. existing service patterns within the proposed district;

4. the types and estimated amounts of recyclable materials generated by commercial establishments within the proposed district that are required to be recycled, reused or sold for reuse pursuant to section 16-306 of this code and any rules promulgated pursuant thereto;

5. the rates being charged by persons licensed pursuant to this subchapter to commercial establishments within the proposed district; and

6. the history of complaints from commercial establishments within the district regarding overcharging for the removal of trade waste or the inability to change providers of trade waste removal services.

b. For each area designated as a special trade waste removal district by the commission pursuant to subdivision a of this section, the commission shall be authorized to enter into agreements with one or more specified licensee(s) permitting such licensee(s) to provide for the removal of trade waste within such district. The term of any such agreement, inclusive of any period by which the original term is extended at the option of the commission, shall not exceed two years. No such agreement(s) shall be entered into until a public hearing has been held with respect thereto after publication in the City Record at least thirty days in advance of such hearing and the commission has solicited as part of the record of such hearing whether there is support for the establishment of such special trade waste removal district from local business organizations or business improvement districts.

c. The commission shall issue requests for proposals to conduct trade waste removal in a special trade waste removal district and, based upon the review and evaluation of responses thereto, may negotiate and enter into such agreement(s) pursuant to subdivision b of this section, as the commission, in its discretion, determines will best provide for the efficient and orderly removal of trade waste in such district. Such request for proposals shall solicit information regarding the qualifications of proposers, the nature and frequency of the trade waste removal services to be provided, the rate or rates to be charged to establishments for such services, the nature and extent of recycling services and waste audit services, if any, to be provided, and any other information relating to performance standards, customer service and security of performance the commission deems appropriate. The commission shall enter into one or more such agreement(s) if it finds, on the basis of the proposals, that such agreement(s) will likely result in improved customer service and lower rates.

d. Any agreement(s) entered into pursuant to subdivision b of this section shall:

(1) specify the area within which services will be provided under such agreement;

(2) specify the frequency with which trade waste will be removed;

(3) specify the maximum rate or rates to be charged to establishments in such area for the removal of trade waste generated by such establishments;

(4) [specify any recycling services and any waste audit programs] *require the provision of separate recycling or compostable organic collection services* to be provided to establishments within such area, *including economic incentives for establishments to pre-sort recyclable and compostable organic materials;*

(5) *require that all vehicles used by the licensee for waste removal purposes 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. "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;*

(6) establish a procedure to determine the type and volume of waste removed from establishments in order to ensure adequate assessment of the charges for such removal, and prescribe any other appropriate requirements relating to performance standards, customer service, security of performance, or such other matters as the commission deems necessary to effectuate the purposes of this section; and

[(6)] (7) require that the licensee shall enter into a contract with an independent auditor approved or selected by the commission, and that such contract, the cost of which shall be paid by the licensee, shall provide: that the auditor shall investigate the activities of the licensee with respect to the licensee's compliance with the provisions of this chapter, other applicable federal, state and local laws and such other matters as the commission shall determine by rule; and that the auditor shall report the findings of such monitoring and investigation to the commission on a periodic basis, no less than four times a year. The commission shall be authorized to prescribe such reasonable terms and conditions in such contract as the commission deems necessary to effectuate the purposes of this section.

e. No service provided pursuant to an agreement entered into pursuant to subdivision b of this section shall be subcontracted, nor shall the right to provide service pursuant to such an agreement be assigned or otherwise delegated, whether upon an emergency or any other basis, unless the commission has provided specific written authorization therefor.

f. The commission shall be authorized, upon due notice and hearing, to terminate an agreement entered into pursuant to subdivision b of this section based upon a determination that there has been a default in the performance of the terms and conditions of such agreement. In the event of termination, if the remaining licensees authorized to remove trade waste in the special trade waste district lack the capacity to adequately service the commercial establishments in such districts the commission may, as appropriate: (i) enter into an additional agreement with a licensee who responded to the request for proposals previously issued for the special trade waste removal district pursuant to subdivision c of this section; or (ii) issue a new request for proposals pursuant to subdivision c of such section.

g. The provisions of this section and agreements concluded pursuant to subdivision b of this section shall not apply to:

(1) [the collection and disposal of recyclable materials as such term is defined in subdivision i of section 16-303 of this code where a commercial establishment wishes to contract separately for the sale of any such materials;

(2) [the collection and disposal of regulated medical waste pursuant to section 16-120.1 of this code;

[(3)] (2) the collection and disposal of waste containing asbestos pursuant to section 16-117.1 of this code;

[(4)] (3) the collection and disposal of demolition and construction debris or waste;

[(5)] (4) the collection and disposal of hazardous waste pursuant to section 27-0901 of the environmental conservation law, including material containing hazardous waste;

[(6)] (5) the removal and disposal of waste by the owner, lessee or person in control of a commercial establishment;

[(7)] (6) the removal and disposal of trade waste from a building with a floor area of two hundred thousand square feet or more, when the owner or managing agent of such building elects to arrange for the removal and disposal of all the trade waste from such building by a licensee other than a licensee with whom the commission has entered into agreement pursuant to subdivision b of this section; and

[(8)] (7) the removal and disposal of trade waste from a building located within the special trade waste removal district owned or controlled by an individual or an entity that owns or controls a building or buildings within the city of New York which, in the aggregate, occupy a floor area of one million square feet or more, where the contract for the collection, removal or disposal of trade waste for the building located within the special trade waste removal district is with a licensee who also provides trade waste removal services for other buildings within the city of New York that are owned or controlled by such individual or entity. For the purpose of this paragraph: an entity shall be defined as a sole proprietorship, partnership, corporation, net lessee, mortgagee or vendee in possession, a trustee in bankruptcy or a receiver; and an individual shall be defined as a sole proprietor, the managing or general partner of one or more partnerships or the chief operating officer or executive officer of one or more corporations. An individual's aggregate ownership or controlling interest shall be computed by adding the square footage of all buildings within the city of New York owned by partnerships and corporations in which the individual serves as the managing or general partner of the partnerships and/or the chief operating officer or executive officer of the corporations, including those buildings where the managing or general partner is a corporation in which the individual is the chief operating officer or executive officer.

h. Except for a licensee who has entered into an agreement with the commission pursuant to subdivision b of this section, a trade waste business required to be licensed pursuant to this chapter shall notify the commission of any agreement to provide a service described in subdivision g of this section within a special trade waste district. The commission may provide by rule for the visual identification of vehicles providing such services in a special trade waste district.

i. Nothing in subdivision g of this section shall be construed to prohibit a commercial establishment in a special trade waste district from contracting for the services described in such subdivision with a licensee who has concluded an agreement pursuant to subdivision b of this section.

j. *On or before July first, two thousand fourteen, the commission shall promulgate rules for labor standards and working conditions for waste haulers employed by licensee(s) pursuant to this section.*

§ 2. This local law shall take effect immediately.

Referred to the Committee on Consumer Affairs.

Int. No. 1226

By Council Members Lander, Brewer, Chin, James, Mendez, Richards and Rose.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of housing preservation and development to periodically report on the inclusionary housing program and any similar successor programs.

Be it enacted by the Council as follows:

Section 1. Title 26 of the administrative code of the city of New York is amended by adding a new chapter 11 to read as follows:

CHAPTER 11

PERIODIC REPORTS ON INCLUSIONARY HOUSING PROGRAMS

§ 26-1101 *Definitions. For the purposes of this chapter, the following terms shall mean as follows:*

ADMINISTERING AGENT. (1) *An administering agent, as such term is defined by section 23-911 of the New York City Zoning Resolution, and (2) an individual or entity responsible for ensuring that (i) income-restricted housing units at a generating site are occupied in accordance with the income restrictions for such units or (ii) sleeping quarters for persons with special needs at a generating site are used as sleeping quarters for persons with special needs.*

COMPENSATED DEVELOPMENT. (1) *A compensated development, as such term is defined by section 23-911 of the New York City Zoning Resolution, and (2) a development, enlargement of the floor area of an existing building or a conversion of a building, or portion thereof, from non-residential use to dwelling units, as such terms are defined by section 12-10 of the New York City Zoning Resolution, that is located within a compensated zoning lot.*

COMPENSATED ZONING LOT. (1) *A compensated zoning lot, as such term is defined by section 23-911 of the New York City Zoning Resolution, and (2) a zoning lot that receives an increased floor area ratio, as such terms are defined by section 12-10 of the New York City Zoning Resolution, as a result of (i) income-restricted housing units being provided at a generating site or (ii) sleeping quarters for persons with special needs being provided at a generating site.*

DEPARTMENT. *The department of housing preservation and development.*

GENERATING SITE. (1) *A generating site, as such term is defined by section 23-911 of the New York City Zoning Resolution, and (2) a building or building segment, as such terms are defined by section 12-10 of the New York City Zoning Resolution, containing income-restricted housing units or sleeping quarters for persons with special needs.*

INCOME-RESTRICTED HOUSING UNIT. *A dwelling unit or rooming unit, as such terms are defined by section 12-10 of the New York City Zoning Resolution, the occupancy of which is or will be restricted based on the income of the occupant or intended occupant.*

§ 26-1102 *Annual report. No later than June 1 of each year, the department, in consultation with the department of buildings and the department of city planning, shall report to the council, and make available on the department's website, the following information for each compensated development:*

(1) *the address, block and lot number;*

(2) *the source and type of all financial assistance, including but not limited to grants, loans, subsidies, tax credits and tax exemptions or abatements, provided for the compensated development by any federal, state or local agency or instrumentality for the purpose of promoting the creation, preservation or rehabilitation of income-restricted housing units or sleeping quarters for persons with special needs;*

(3) *the following information for each generating site related to the compensated zoning lot:*

(i) *the address, block and lot number;*

(ii) *the number of income-restricted housing units located at the generating site, disaggregated by income restriction; and*

(iii) *the administering agent.*

§2. This local law shall take effect immediately.

Referred to the Committee on Housing and Buildings.

Res. No. 2088

Resolution calling upon the United States Congress to pass and the President to sign the Military Access to Reproductive Care and Health (MARCH) Act of 2013, which would allow women in the military to use their own money to pay for abortions in military medical facilities.

By Council Members Lappin, Brewer, Chin, James, Koppell, Mendez and Rose.

Whereas, According to the United States Department of Defense (DoD) women make up nearly 15 percent of today's active duty military and 18 percent of National Guard and Reserve forces; and

Whereas, U.S. military personnel are stationed or deployed in numerous countries, all of which have their own laws regarding abortion; and

Whereas, Currently members of the military and their dependents are prohibited from receiving abortion services at military hospitals except in cases where a woman's life is endangered or pregnancy is the result of rape, even where no public funds are being used; and

Whereas, According to the National Women's Law Center, the current ban can create overwhelming barriers for servicewomen seeking access to safe reproductive healthcare; and

Whereas, In addition, the National Women's Law Center states that for a woman serving where abortion is illegal, unsafe, or unavailable, she may be left with no options and may delay treatment; and

Whereas, According to the Guttmacher Institute, the ban on privately funded abortions compromises the health and safety of U.S. servicewomen on bases overseas, as well as their families and impedes equal access and rights to U.S. military personnel; and

Whereas, In 2013, S.777/H.R.1389, also known as the Military Access to Reproductive Care and Health (MARCH) Act, was introduced by Senator Kirsten Gillibrand and Representative Louise Slaughter; and

Whereas, The MARCH Act would repeal the current statutory restriction that prohibits use of Department of Defense funds and facilities for abortions; and

Whereas, The legislation would not intrude upon the "conscience clauses" that the armed services has enacted to accommodate medical personnel who object to the performance of abortions for reasons of religion or conscience; and

Whereas, The Act would restore provisions of law in which servicewomen had the option to "pre-pay" for abortions in military facilities using their own funds; and

Whereas, The MARCH Act is supported by numerous advocacy groups and also has the support of the DoD; and

Whereas, The MARCH Act would repeal current law prohibiting military facilities from providing abortion except in very limited circumstances and enable servicewomen and family members to use their own money to get procedures as needed; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to pass and the President to sign the Military Access to Reproductive Care and Health (MARCH) Act of 2013, which would allow women in the military to use their own money to pay for abortions in military medical facilities.

Referred to the Committee on Veterans.

Res. No. 2089

Resolution calling upon the School Construction Authority (SCA) to immediately cease using and procuring any polyvinyl chloride (PVC) laden products, especially vinyl flooring, for any use in New York City (NYC) public schools; and set a timetable for the removal of all PVC laden vinyl flooring from all NYC public schools within a time frame of five years.

By Council Members Levin, Brewer, Chin, James, Koppell, Mendez and Rose.

Whereas, Polyvinyl chloride (PVC), commonly known as vinyl, is one of the most widely used plastics; and

Whereas, Over 14 billion pounds of PVC are produced every year in North America for products such as packaging, cling film, bottles, credit cards, audio records, imitation leathers, window frames, cable and wire insulation, window blinds, shower curtains, cables, pipes, panelling, flooring, pipes, gutters, furniture, binders, folders, pens, wallpaper, toys, car interiors, and medical disposables; and

Whereas, PVC can only be used once it has been plasticized and stabilized with the addition of other toxic chemicals including lead, cadmium, organotins, and phthalate plasticizers; and

Whereas, These additives can constitute approximately 40 to 60 percent of finished PVC products; and

Whereas, Such additives are capable of leaching, flaking or outgassing over time, thus increasing the risks of causing asthma, poisoning, learning and developmental disabilities, reproductive disorders, altered liver function, altered kidney function, respiratory complications, neurodevelopmental problems, central nervous system complications, immune system complications, skin complications, cancer, and more; and

Whereas, Ethylene dichloride (dioxin) and vinyl chloride are byproducts in the creation of PVC and can cause severe health problems; and

Whereas, According to the Centers for Disease Control and Prevention, severe health problems caused by byproducts of PVC include liver damage, lung damage, kidney damage, heart damage, nerve damage, blood clotting inhibition, development of immune reaction, circulation complications, skin damage, sperm and testes damage, irregular menstrual periods, high blood pressure, liver cancer, brain cancer, lung cancer, variety of blood cancers, mammary gland cancer, birth defects, delayed development in fetuses, decreases weight in fetuses, miscarriages, and negatively affected growth and development; and

Whereas, Alternatives to PVC, including linoleum, polyolefin, synthetic rubber, and cork, are readily available, considerably safer, more cost effective, and have higher life-cycles; and

Whereas, New York City and State governments have already instituted several policies in order to promote "green" city and state schools, including PlaNYC, the

Green Schools Guide, Local Laws 118 and 120 of 2005, and state procurement guidelines; and

Whereas, Immediately ceasing the use and procurement of any PVC laden product in New York City public schools is consistent with these policies; and

Whereas, Healthy schools that are free from toxic chemicals are critical to a child's health and well-being especially since children are at a higher risk from even low-level exposure to many toxic chemicals; and

Whereas, Since much of a child's life is spent at school, measures should be taken to reduce exposure; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the School Construction Authority (SCA) to immediately cease using and procuring any polyvinyl chloride (PVC) laden products, especially vinyl flooring, for any use in New York City (NYC) public schools; and set a timetable for the removal of all PVC laden vinyl flooring from all NYC public schools within a time frame of five years.

Referred to the Committee on Education.

Preconsidered Int. No. 1227

By Council Members Recchia, Chin and Dickens (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to health insurance coverage for surviving family members of certain deceased employees of the police department.

Be it enacted by the Council as follows:

Section 1. Subparagraph (i) of paragraph 2 of subdivision b of the administrative code of the city of New York, as amended by local law number 9 for the year 2009, is amended to read as follows:

(i) Where the death of a member of the uniformed forces of the police or fire departments is or was the natural and proximate result of an accident or injury sustained while in the performance of duty, the surviving spouse or domestic partner, until he or she dies, and the children under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-three years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. Where the death of a uniformed member of the correction or sanitation departments has occurred while such employee was in active service as the natural and proximate result of an accident or injury sustained while in the performance of duty, the surviving spouse or domestic partner, until he or she dies, and the child of such employee who is under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-three years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. Where the death of an employee of the fire department of the city of New York who was serving in a title whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law), or whose duties required the direct supervision of employees whose duties are those of an emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law) is or was the natural and proximate result of an accident or injury sustained while in the performance of duty on or after September eleventh, two thousand one, the surviving spouse or domestic partner, until he or she dies, and the children under the age of nineteen years and any such child who is enrolled on a full-time basis in a program of undergraduate study in an accredited degree-granting institution of higher education until such child completes his or her educational program or reaches the age of twenty-three years, whichever comes first, shall be afforded the right to health insurance coverage, and health insurance coverage which is predicated on the insured's enrollment in the hospital and medical program for the aged and disabled under the social security act, as is provided for city employees, city retirees and their dependents as set forth in paragraph one of this subdivision. The mayor may, in his or her discretion, authorize the provision of such health insurance coverage for the surviving spouses, domestic partners and children of employees of the fleet services division of the police department who died on or after October first, nineteen hundred ninety-eight and before April thirtieth, nineteen hundred ninety-nine[, and]; the surviving spouses, domestic partners and children of employees of the roadway repair and maintenance division of the department of transportation who died on or after September first, two thousand five and before September twenty-eighth, two thousand five[, and]; the surviving spouses, domestic partners and children of employees of the bureau of wastewater treatment of the department of environmental protection who died on or after January eighth, two thousand nine and before January tenth, two thousand nine[.]; *and the surviving spouses, domestic partners and*

children of employees of the traffic enforcement district of the transportation bureau of the police department who died on or after November first, two thousand thirteen and before December first, two thousand thirteen as a natural and proximate result of an accident or injury sustained while in the performance of duty, subject to the same terms, conditions and limitations set forth in the section. Provided, however, and notwithstanding any other provision of law to the contrary, and solely for the purposes of this subparagraph, a member otherwise covered by this subparagraph shall be deemed to have died as the natural and proximate result of an accident or injury sustained while in the performance of duty upon which his or her membership is based, provided that such member was in active service upon which his or her membership is based at the time that such member was ordered to active duty pursuant to Title 10 of the United States Code, with the armed forces of the United States or to service in the uniformed services pursuant to Chapter 43 of Title 38 of the United States Code, and such member died while on active duty or service in the uniformed services on or after June fourteenth, two thousand five while serving on such active military duty or in the uniformed services.

§ 2. This local law shall take effect immediately, and shall be retroactive to and deemed to have been in full force and effect on and after November 30, 2013.

Adopted by the Council (preconsidered by the Committee on Finance).

Preconsidered Int. No. 1228

By Council Members Recchia and Koo (by request of the Mayor).

A Local Law in relation to the date of submission by the mayor of a preliminary management report and the date prior to which the council shall conduct public hearings and the date by which the council shall submit a report or reports pertaining thereto, the date of submission by the mayor of the preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects, the date of submission by the mayor of the preliminary budget, the date of publication by the director of the independent budget office of a report on revenues and expenditures, the date of submission by the community boards of statements in regard to the preliminary budget, the date of submission by the commissioner of finance of an estimate of the assessed valuation of real property and statement of real property taxes due, expected to be received, and uncollected, the date of submission by the mayor of a tax benefit report, the date of submission by the borough boards of statements on budget priorities, the date of submission by the council of estimates of the financial needs of the council, the date of submission by the borough presidents of proposed modifications of the preliminary budget, the date of publication by the director of the independent budget office of a report analyzing the preliminary budget, the date by which the council shall hold hearings and submit recommendations in regard to the preliminary budget, and the date of submission by the campaign finance board of estimates of the financial needs of the campaign finance board, relating to the fiscal year two thousand fifteen.

Be it enacted by the Council as follows:

Section 1. During the calendar year 2014 and in relation to the 2015 fiscal year:

1. Notwithstanding any inconsistent provisions of section 12 of the New York city charter, as amended by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit a preliminary management report as therein described not later than February 26, 2014, and the council shall conduct public hearings on such report prior to May 5, 2014 and submit to the mayor and make public not later than May 5, 2014, a report or reports of findings and recommendations.

2. Notwithstanding any inconsistent provisions of section 235 of the New York city charter, as added by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit and publish a preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects as therein described not later than February 12, 2014.

3. Notwithstanding any inconsistent provisions of section 236 of the New York city charter, as amended by local law number 25 for the year 1998, the mayor shall pursuant to such section submit a preliminary budget as therein described not later than February 12, 2014.

4. Notwithstanding any inconsistent provisions of section 237 of the New York city charter, as added by vote of the electors on November 7, 1989, the director of the independent budget office shall publish a report on revenues and expenditures as therein described on or before February 28, 2014.

5. Notwithstanding any inconsistent provisions of section 238 of the New York city charter, as added by vote of the electors on November 7, 1989, each community board shall pursuant to such section submit a statement and recommendations in regard to the preliminary budget as therein described not later than March 14, 2014.

6. Notwithstanding any inconsistent provisions of section 239 of the New York city charter, as added by vote of the electors on November 7, 1989, the commissioner of finance shall pursuant to such section submit an estimate of the assessed valuation of real property and a certified statement of all real property taxes due as therein described not later than March 14, 2014.

7. Notwithstanding any inconsistent provisions of section 240 of the New York city charter, as added by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit a tax benefit report as therein described not later than March 14, 2014.

8. Notwithstanding any inconsistent provisions of section 241 of the New York city charter, as added by vote of the electors on November 7, 1989, each borough board shall pursuant to such section submit a statement of budget priorities as therein described not later than March 24, 2014.

9. Notwithstanding any inconsistent provisions of section 243 of the New York city charter, as added by vote of the electors on November 7, 1989, the council shall pursuant to such section approve and submit estimates of the financial needs of the council as therein described not later than April 7, 2014.

10. Notwithstanding any inconsistent provisions of section 245 of the New York city charter, as added by vote of the electors on November 7, 1989, each borough president shall pursuant to such section submit any proposed modifications of the preliminary budget as therein described not later than April 7, 2014.

11. Notwithstanding any inconsistent provisions of section 246 of the New York city charter, as added by vote of the electors on November 7, 1989, the director of the independent budget office shall pursuant to such section publish a report analyzing the preliminary budget as therein described on or before April 11, 2014.

12. Notwithstanding any inconsistent provisions of section 247 of the New York city charter, as added by vote of the electors on November 7, 1989, the council shall pursuant to such section hold hearings and submit recommendations as therein described not later than April 21, 2014.

13. Notwithstanding any inconsistent provisions of subdivision c of section 1052 of the New York city charter, as added by vote of the electors on November 3, 1998, the campaign finance board shall pursuant to such subdivision submit estimates of the financial needs of the campaign finance board as therein described not later than April 7, 2014.

§ 2. This local law shall take effect immediately, except that if it shall have become a law after January 16, 2014, it shall be retroactive to and deemed to have been in full force and effect as of January 16, 2014.

Adopted by the Council (preconsidered by the Committee on Finance).

Preconsidered Res. No. 2090

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

By Council Members Recchia, Koo, and Rose.

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 new Description/Scope of Services for certain organizations receiving local, aging, and youth discretionary funding; and

Whereas, On June 19, 2009 the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2010 with various programs and initiatives (the “Fiscal 2010 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 youth discretionary funding;

Whereas, On October 19, 2013, the Council of the City of New York (the “City Council”) adopted Resolution 1959, titled “Resolution approving the modification (MN-1) of Units of Appropriation and the Transfer of City Funds Between Agencies Proposed by The Mayor Pursuant to Section 107 (b) of the New York City Charter (MN-1)”, which provided funding in the amount of \$550,000 from the general reserve to Common Cents New York, Inc. (EIN 13-3613229) within the budget of the Department of Youth and Community Development; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in Resolution 1959 by approving the funding allocated to Common Cents New York, Inc. within the budget of the Department of Youth and Community Development; now 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 Social Adult Day Care Programs 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 Domestic Violence and Empowerment (DoVE) 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 YMCA After-School Program 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 Out of School Time Restoration 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 Asthma Control Program 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 HIV/AIDS Faith Based 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 of certain organizations receiving funding pursuant to the Design Week Initiative in accordance with the Fiscal 2014 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 Senior Centers and Programs Restoration Initiative in accordance with the Fiscal 2014 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 Initiative Funding Changes in accordance with the Fiscal 2014 Expense Budget, as set forth in Chart 12; 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 2010 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;

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; and be it further

Resolved, That the City Council approves the funding allocated to Common Cents within the budget of the Department of Youth and Community Development.

Adopted by the Council (preconsidered by the Committee on Finance; for text of the Exhibits, please see the attachment to the resolution following the Report of the Committee on Finance on Res No. 2090 printed in these Minutes).

Int. No. 1229

By Council Member Vallone, Jr.

A Local Law to amend the administrative code of the city of New York, in relation to licensing certain costumed individuals.

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 33, to read as follows:

Subchapter 33

Licensing of Certain Costumed Individuals

§20-539 Definitions.

§20-540 License required.

§20-541 Application.

§20-542 Issuance of license.

§20-543 Rules.

§20-544 Violations.

§20-545 Hearing authority.

§20-539 Definitions. *For purposes of this subchapter, the following definitions shall apply:*

a. "Costumed individuals" means any person wearing a costume;

b. "Costume" means an article of clothing, accessory, hair style, mask, paint, or other object that: (1) obscures or shrouds the face of a person beyond recognition; or (2) causes a person to resemble a fictional character rather than his or her own personal identity.

c. "Solicit, ask or beg" shall include using the spoken, written, or printed word, or bodily gestures, signs or other means with the purpose of obtaining an eventual or immediate donation of money or other thing of value in return for some action;

d. "Public place" shall mean a place to which the public or a substantial group of persons has access, and includes, but is not limited to, any street, highway, sidewalk, parking lot, plaza, transportation facility, school, place of amusement, park, and playground.

§20-540 License required. *It shall be unlawful for any costumed individual to solicit, ask, or beg in a public place within the geographical region determined by the commissioner pursuant to this subchapter without first obtaining a license.*

§20-541 Application. *a. Each person applying for a license pursuant to this subchapter shall file an application in such form and detail as the commissioner may prescribe and shall pay the fee prescribed by the commissioner pursuant to this subchapter.*

b. In addition to any other information required by the commissioner pursuant to the rules prescribed under this subchapter, the commissioner shall require the name and address of the applicant for a costumed individual license.

§20-542 Issuance of license. *Upon the filing of such application, the commissioner shall issue a revocable license for a one year period, unless he or she finds that the applicant does not meet the criteria as determined by the commissioner pursuant to this subchapter.*

§20-543 Rules. *The commissioner shall make and promulgate such rules and regulations as he or she deems necessary for the proper implementation and enforcement of this subchapter. The rules and regulations promulgated by the commissioner shall include, but not be limited to:*

1. A street-by-street description of a geographic region of public places in which the solicitation, asking, or begging by a costumed individual is unlawful without a license pursuant to this subchapter;

2. An eligibility criteria that all applicants must meet in order to obtain original licensure under this subchapter as well as eligibility criteria and steps necessary for renewals of such licenses;

3. Application and renewal fees;

4. Description of the renewal process and time periods for each renewal;

5. Specifications as to the manner in which licensees must display licenses while wearing costumes and soliciting, asking or begging within the commissioner's determined geographic region of public places; and

6. Description of the actions that would lead to the revocation of a license obtained pursuant to this subchapter, which shall include, but not be limited to, violations of administrative code section 10-136.

§20-544 Violations. *a. Any person who violates the provisions of this section shall be guilty of a violation punishable by not less than two-hundred fifty dollars or a term of imprisonment of not more than fifteen days, or both such fine and imprisonment.*

b. Any person violating this section shall be subject to a civil penalty of not less than one thousand dollars. A proceeding to recover any civil penalty pursuant to this section shall be commenced by the service of a notice of hearing that shall be returnable to the administrative tribunal of the department.

§20-545 Hearing authority. *a. Notwithstanding any other provision of law, the department shall be authorized upon due notice and hearing, to impose civil penalties for the violation of any provision of this subchapter and any rules promulgated thereunder. The department shall have the power to render decisions and orders and to impose civil penalties not to exceed the amounts specified in section 20-544 of this subchapter for each such violation. All proceedings authorized pursuant to this section shall be conducted in accordance with rules promulgated by the commissioner. The penalties provided for in section 20-544 of this subchapter shall be in addition to any other remedies or penalties provided for the enforcement of such provisions under any other law including, but not limited to, civil or criminal actions or proceedings.*

b. All such proceedings shall be commenced by the service of a notice of violation returnable to the administrative tribunal of the department. The commissioner shall prescribe the form and wording of notices of violation. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and, if sworn to or affirmed, shall be prima facie evidence of the facts contained therein.

§2. This local law shall become effective 120 days after its enactment into law.

Referred to the Committee on Consumer Affairs.

Res. No. 2091

Resolution calling upon the Metropolitan Transportation Authority (MTA) to establish a Metrocard discount fare program through which eligible non-profit organizations can receive and distribute discounted Metrocards to their clients.

By Council Members Van Bramer, Mendez and Rose.

Whereas, The Metropolitan Transportation Authority (MTA) is North America's largest network for transportation that serves a population of 15.1 million people in a 5,000 square mile area including New York City, Long Island, southeastern New York State, and Connecticut; and

Whereas, MTA subways, buses, and railroads provide over 2.62 billion rides annually according to the MTA 2013 Annual Report; and

Whereas, The MTA public transportation network allows New York City to maintain its status as a world hub of finance, commerce, culture, entertainment, and business; and

Whereas, This public mass transit system optimizes the New York City economy by facilitating access to job opportunities for numerous people across a broad region; and

Whereas, According to the recent American Community Survey by the United States Census Bureau, the City's labor force consists of 4.11 million people; and

Whereas, The 2013 unemployment rate in the City is 8.9 percent compared to a national rate of 7.0 percent, according to the United States Department of Labor; and

Whereas, The Community Service Society conducted a survey of low-income New Yorkers in 2013, finding that 21.2 percent of the City's population are below the poverty level, which is statistically unchanged from 2011 at 20.9 percent; and

Whereas, According to the MTA, four out of every five rush-hour commuters travelling to New York City's central business districts commute by public transit services; and

Whereas, According to MTA figures in 2012, the average weekday subway ridership was 5.4 million persons and the annual ridership was 1.7 billion people; and

Whereas, In 2012, the average weekday bus ridership was 2.2 million persons and the annual ridership was 6.7 million people, as reported by the MTA; and

Whereas, In 1990, the base fare for a single ride was \$1.15, increasing by \$.25 in 1992 and another \$.25 in 1995, and continued to increase in 2005 to \$2.00 and by another 25 percent in 2009 to \$2.50, where the base fare rate stands today; and

Whereas, Over 1.98 million people in the City's labor force depend on commuting to work by public transportation and bus and subway fares have been increasing more rapidly in recent years, when viewed from the system's inception in 1904; and

Whereas, Economic conditions and unemployment rates put a strain on the City's population, especially upon those New Yorkers with limited financial means; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Metropolitan Transportation Authority (MTA) to establish a Metrocard discount fare program through which eligible non-profit organizations can receive and distribute discounted Metrocards to their clients.

Referred to the Committee on Transportation.

Res. No. 2092

Resolution calling on the Metropolitan Transportation Authority to install soundproofing systems near schools where subway and train noise reach disruptive decibel levels.

By Council Members Van Bramer, Cabrera, Koo, Mendez and Rose.

Whereas, The Metropolitan Transportation Authority (“MTA”) has over 600 miles of subway tracks, and operates 6,000 subway cars that serve 468 subway stations; and

Whereas, A large portion of the MTA’s track infrastructure is above ground, running through many business and residential areas; and

Whereas, While New York City arguably has one of the largest and most efficient subway systems in the world, the largely above ground system poses many problems to City residents; and

Whereas, In particular, subway noise has become a concern to many school parents; and

Whereas, According to one media report, a public school in Queens, that is located near an elevated train, registered decibel levels in the high 90s; and

Whereas, According to the National Institutes of Health prolonged exposure to noise levels of 85 decibels or higher may lead to hearing loss; and

Whereas, New York City Department of Health recently launched a campaign to educate City residents about the negative effects of headphone use; and

Whereas, In Seattle, Washington, the local transit authority began work in 2013 to soundproof a portion of its light rail system that runs close to a residential neighborhood due to concerns about noise levels; and

Whereas, The MTA in conjunction with other relevant City and State agencies should begin studying ways to soundproof subway tracks located near public schools; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the Metropolitan Transportation Authority to install soundproofing systems near schools where subway and train noise reach disruptive decibel levels.

Referred to the Committee on Transportation.

Int. No. 1230

By Council Members Weprin, Brewer, Koo, Mendez and Rose.

A Local Law to amend the administrative code of the city of New York, in relation to allowing residential cooperatives to consolidate required energy efficiency reports.

Be it enacted by the Council as follows:

Section 1. Section 28-308.1 of the administrative code of the city of New York as added by Local Law number 87 for the year 2009, is amended by adding the following definition in appropriate alphabetical order to read as follows:

Cooperative Corporation. A corporation governed by the requirements of the state cooperative corporation law or general business law that, among other things, grants persons the right to reside in a cooperative apartment, that right existing by such person’s ownership of certificates of stock, proprietary lease, or other evidence of ownership of an interest in such entity.

§ 2. Section 28-308.4.1 of the administrative code of the city of New York is amended to read as follows:

Due dates. The first energy efficiency reports for covered buildings in existence on the effective date of this article and for new buildings shall be due, beginning with calendar year 2013, in the calendar year with a final digit that is the same as the last digit of the building’s tax block number, as illustrated in the following chart:

Last digit of	0	1	2	3	4	5
6	7	8	9			
tax block						
number						
Year first						
EER is due	2020	2021	2022	2013	2014	2015 2016 2017 2018
2019						

Owners of covered buildings (i) that are less than 10 years old at the commencement of their first assigned calendar year or (ii) that have undergone substantial rehabilitation, as certified by a registered design professional, within the 10 year period prior to any calendar year in which an energy efficiency report is due, such that at the commencement of such calendar year all of the base building systems of such building are in compliance with the New York city energy conservation code as in effect for new buildings constructed on and after July 1, 2010, or as in effect on the date of such substantial rehabilitation, whichever is later, may defer submitting an energy efficiency report for such building until the tenth calendar year after such assigned calendar year.

Exceptions:

1. The first due dates for city buildings shall be in accordance with a staggered schedule, commencing with calendar year 2013 and ending with calendar year 2022 for buildings in existence on the effective date of this article, to be

submitted by the department of citywide administrative services to the department on or prior to December 31, 2011. A city building constructed after the effective date of this article shall be added to such schedule within 10 years after the issuance of the first certificate of occupancy for such building. Copies of energy efficiency reports submitted to the department with respect to city buildings that are not submitted by the department of citywide administrative services shall also be submitted to the department of citywide administrative services.

2. A cooperative corporation, that owns multiple covered buildings located on different tax block numbers, that is required to file an energy efficiency report for more than one covered building in the same calendar year may consolidate all such energy efficiency reports into one report which shall be accepted by the department in satisfaction of the requirements of this section for each covered building included in such consolidated report.

§ 3. This local law shall take effect one hundred eighty days after its enactment into law, except that the Department of Buildings shall take all measures for its implementation including the promulgation of rules prior to such effective date.

Referred to the Committee on Housing and Buildings.

Res. No. 2093

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, legislation increasing the civil penalty for driving on the sidewalk.

By Council Members Weprin and Koo.

Whereas, Section 1225-a of the New York State Vehicle and Traffic Law prohibits any individual from driving “a motor vehicle on or across a sidewalk” with minor exceptions, such as to gain access to adjacent buildings or driveways; and

Whereas, A violation of §1225-a is a traffic infraction, resulting in an escalating range of penalties, including a fine of up to \$150 for a first offense; and

Whereas, Driving on the sidewalk presents a grave risk to pedestrians; and

Whereas, During a 30-day period in February and March 2013 there were five instances of a motorist hitting a pedestrian on a sidewalk, resulting in three deaths and two serious injuries; and

Whereas, On September 12, 2013 five children were injured in Maspeth, Queens when an SUV hit them while they were walking on the sidewalk; and

Whereas, In light of the inexcusable and serious nature of driving on the sidewalk and the dangerous conditions it creates, the fine for violation of §1225-a of the Vehicle and Traffic Law should be tripled and the infraction should also result in three points being added to the driver’s license; 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 increasing the civil penalty for driving on the sidewalk.

Referred to the Committee on Transportation.

Res. No. 2094

Resolution to designate the month of January as “Higher Education for All Month.”

By Council Members Williams, James, Koo and Rose.

Whereas, Education transforms lives, reduces poverty, and strengthens communities; and

Whereas, Education is particularly important to those who are currently or formerly involved in the criminal justice system; and

Whereas, According to the National Center for Education Statistics (NCES), among federal and state inmates, about 37 percent of inmates do not have a high school diploma or a GED, compared to 19 percent of the general population; and

Whereas, NCES also reported that 78 percent of the prison population lacks postsecondary education, compared to 49 percent of the general population; and

Whereas, According to a recent report from the Education from the Inside Out coalition, an advocacy organization, giving incarcerated persons access to higher education reduces recidivism; and

Whereas, Education from the Inside Out added that while nationwide 43.3 percent of formerly incarcerated individuals are likely to return to prison within three

years of release, the likelihood drops to 5.6 percent for Bachelor's degree recipients and less than 1 percent for Master's degree recipients; and

Whereas, Education From the Inside Out also indicated that access to higher education for the incarcerated also reduces the related costs of crime and imprisonment, and increases opportunities for employment after release; and

Whereas, According to the Institute for Higher Education Policy, offering higher education to prisoners may be especially valuable in a society where postsecondary credentials are increasingly necessary to gain access to living-wage jobs; and

Whereas, However, formerly incarcerated individuals often experience difficulties in gaining employment after release from prison, because they often lack marketable skills and may face discrimination due to their criminal background; and

Whereas, Furthermore, a provision in the Violent Crime Control and Law Enforcement Act of 1994 has prevented those incarcerated in a state or federal correctional facility from receiving Pell Grants; and

Whereas, The loss of Pell Grant funding had an immediate adverse impact on postsecondary correctional education; and

Whereas, In New York State, the recidivism rate within three years of release is approximately 40 percent, according to *The New York Times*, and as statistics show, higher education is a highly effective approach to reducing the number of individuals returning to prison; and

Whereas, In collaboration with Education From the Inside Out, advocates hope to highlight the importance of ensuring that currently and formerly incarcerated individuals have access to high quality higher education by designating the month of January as "Higher Education for All Month"; now, therefore, be it

Resolved, That the Council of the City of New York designates the month of January as "Higher Education for All Month."

Referred to the Committee on Higher Education.

Res. No. 2095

Resolution designating June 20th of each year as President Nelson Mandela Day in the City of New York.

By Council Members Williams, Brewer, Dickens, James, Koo, Koppell, Mendez, Richards and Rose.

Whereas, Nelson Mandela was a South African anti-apartheid revolutionary, politician, and philanthropist; and

Whereas, Mr. Mandela became South Africa's first black president from 1994 to 1999, and was the first elected in a fully representative democratic election; and

Whereas, His government focused on dismantling the legacy of apartheid through tackling institutionalized racism, poverty and inequality, and fostering racial reconciliation; and

Whereas, Prior to his historic presidency, Mr. Mandela served as leader of the African National Congress (ANC) and advocated for peaceful resistance against government discrimination and oppression; and

Whereas, Mr. Mandela served over 27 years in prison for his fight against apartheid; and

Whereas, An international campaign lobbied for his release and ultimately, he was released in 1990 at the age of 71; and

Whereas, Despite his years of imprisonment, he never showed animosity towards his oppressors; and

Whereas, Four months after his release from prison, Mr. Mandela came to visit New York City for three days; and

Whereas, June 20, 1990 was the first day of his visit to New York City where more than 1 million New Yorkers greeted the icon; and

Whereas, Mr. Mandela gained international acclaim for his activism having received more than 250 honors, including the 1993 Nobel Peace Prize, the United States Presidential Medal of Freedom, the Soviet Order of Lenin and the Bharat Ratna; and

Whereas, Nelson Mandela is held in deep respect within South Africa and around the world; and

Whereas, In his homeland, he is often referred to as Madiba, or as Tata ("Father"), and he is often described as "the father of the nation"; and

Whereas, On December 5, 2013, the world mourned the loss of Mr. Mandela who died at the age of 95; and

Whereas, Nelson Mandela was a figure of enormous moral influence across the globe; and

Whereas, He is and will always remain a symbol of revolution, resistance and triumph over racial segregation and inspired a generation of activists; and

Whereas, In commemoration of his life and legacy, as well as his historic visit to New York City, it would be appropriate to designate June 20th as President Nelson Mandela Day in the City of New York; now, therefore, be it

Resolved, That the Council of the City of New York designates June 20th of each year as President Nelson Mandela Day in the City of New York.

Referred to the Committee on Cultural Affairs, Libraries & International Intergroup Relations.

Int. No. 1231

By Council Members Wills, Dickens, King, Koo, Mendez and Rose.

A Local Law to amend the New York city charter, in relation to waiving fees for the use of city facilities by city elected officials for constituent events.

Be it enacted by the Council as follows:

Section 1. Chapter 35 of the New York city charter is amended by adding a new section 829.1 to read as follows:

§ 829.1 *Fee Waiver.*

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

(i) "City elected official" means any of the following officials of the city of New York: the mayor, the public advocate, a city council member, a borough president or the comptroller of the city of New York.

(ii) "City facility" means any land, building, structure or improvement that is owned or administered by the city and for the use of which a city facility fee must be paid.

(iii) "City facility fee" means any fee that is charged by the city or any of its agencies or other subdivisions in connection with the use of a city facility, including but not limited to any fee for use, setup, cleaning or security. Any fee that is charged by a private party for use of a city facility when such private party uses the facility pursuant to a franchise, concession, lease agreement or other contract with the city is not a city facility fee.

(iv) "Constituent event" means any event that is sponsored exclusively by one or more city elected officials for the primary purpose of promoting the general welfare or the social, educational or economic development of the residents of the elected official's district or the city as a whole. A constituent event does not include any event that requires the payment of an admission fee, that is not open to the general public or that is held for political, commercial or religious purposes.

b. No city elected official shall be required to pay a city facility fee in connection with the use of a city facility for a constituent event.

§2. This local law shall take effect 120 days after its enactment, provided, however, that the commissioner of citywide administrative services shall take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Governmental Operations.

Preconsidered L.U. No.1003

By Council Member Recchia:

Mixed Income Program, Building 1A Compass Residence, 1512 Boone Avenue Bronx, Community District No. 3 Council District No. 17.

Adopted by the Council (preconsidered by the Committee on Finance).

At this point the Speaker (Council Member Quinn) made the following announcements:

ANNOUNCEMENTS:

The Next Stated Council Meeting

will be

The Charter Meeting

On Wednesday, January 8, 2014

12:00 Noon

Whereupon on motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Rivera) adjourned these proceedings to meet again for the Stated Meeting on Wednesday, January 8, 2014.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor's Local Law Note: Int Nos. 488, 732-A, 764-A, 1071, and 1185, all adopted by the Council at the November 26, 2013 Stated Meeting, were signed into law by the Mayor on December 12, 2013 as, respectively, Local Laws Nos. 114 to 118 of 2013.

Int Nos. 143-A, 803-A, 804-A, 844-A, 925-A, 930-A, 1009-A, 1091-A, 1114-A, 1140-A, 1172-A, 1176-A, 1188-A, 1191-A, and 1194-A, all adopted by the Council at the December 10, 2013 Stated Meeting, were signed into law by the Mayor on December 17, 2013 as, respectively, Local Laws Nos. 119 to 133 of 2013.

Int No. 951-A, originally adopted by the Council at the October 30, 2013 Stated Meeting, was re-adopted by the Council at this December 19, 2013 Stated Meeting and was, thereby, enacted into law by the Council's override of the Mayor's November 27, 2013 veto. Int No. 951-A was subsequently assigned as, respectively, Local Law No. 134 of 2013.

Int Nos. 193-A, 635-A, 876-A, 891-A, 1039-A, 1040-A, 1056-A, 1060-A, 1102-A, 1159-A, 1160-A, 1162-A, 1171-A, 1174-A, 1177-A, 1186, 1204-A, 1210-A, 1213-A, 1217, 1227, and 1228, all adopted by the Council at the December 19, 2013 Stated Meeting, were signed into law by the Mayor on December 30, 2013 as, respectively, Local Laws Nos. 135 to 156 of 2013.

On December 27, 2013, the Mayor vetoed the following bills adopted by the Council at this December 19, 2013 Stated Meeting: Int Nos. 172-A, 859-A, 867-A, 933-A, 1055-A, and 1208-A. These 6 vetoed bills will roll over into the new Council session with the respective veto and disapproval messages to be introduced as Mayor's Messages at the January 8, 2014 Charter Meeting.

Editor's Note: This Stated Meeting is the final scheduled proceeding of the Council's 2010-2013 legislative session – all items that are still in committee as of December 31, 2013 are deemed to have died at the end of the session and are considered Filed (Sine Die – End of Session). – M.D.

