THE COUNCIL

Minutes of the Proceedings for the
STATED MEETING
of
Thursday, April 16, 2015, 1:57 p.m.

The Deputy Leader (Council Member Gentile)
Acting President Pro Tempore and Presiding Officer

Council Members

Melissa Mark-Viverito, Speaker

Maria del Carmen Arroyo
Inez D. Barron
Fernando Cabrera
Margaret S. Chin
Andrew Cohen
Costa G. Constantinides
Robert E. Cornegy, Jr.
Elizabeth S. Crowley
Laurie A. Cumbo
Chaim M. Deutsch
Inez E. Dickens
Daniel Dromm
Rafael L. Espinal, Jr.
Mathieu Eugene
Julissa Ferreras
Daniel R. Garodnick
Vincent J. Gentile
Vanessa L. Gibson
David G. Greenfield
Vincent M. Ignizio
Corey D. Johnson
Ben Kallos
Andy L. King
Peter A. Koo
Karen Koslowitz
Rory I. Lancman
Bradford S. Lander
Stephen T. Levin
Mark Levine
Alan N. Maisel
Steven Matteo
Darlene Mealy
Carlos Menchaca
Rosie Mendez
I. Daneek Miller
Annabel Palma
Antonio Reynoso
Donovan J. Richards
Ydanis A. Rodriguez
Deborah L. Rose
Helen K. Rosenthal
Ritchie J. Torres
Mark Treyger
Eric A. Ulrich
James Vacca
Paul A. Vallone
James G. Van Bramer
Mark S. Weprin
Jumaane D. Williams

Absent: Council Member Wills.

The Public Advocate (Ms. James) was not present at this Stated Meeting. The Deputy Leader (Council Member Gentile) assumed the Chair as the Acting President Pro Tempore and Presiding Officer for these proceedings.

After consulting with the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the Deputy Leader (Council Member Gentile).

There were 50 Council Members marked present at this Stated Meeting held in the Council Chambers of City Hall, New York, N.Y.

INVOCATION

The Invocation was delivered by Rev. Dr. James Alexander Forbes, Jr., Union Theological Seminary, 3041 Broadway, New York, N.Y. 10027.

Speaker Viverito, it is my joy to be here with you
and the other Council members.
As a minister, I am aware that we are partners
because we all seek to build the beloved community.
So I am happy to pray with you today,
but the way in which I will pray
will not require you to close your eyes.
I want to pray the prayer
that began with me the week after 2001, 9/11.
During that time, the work was so difficult
as such overwhelming moments of responsibility
until I thought I couldn't make it by myself.
During that time, this was my ritual
for getting up to do the work,
which we still have to do today.
I would rise and I would say,
Holy Spirit, lead me, guide me
as I move throughout this day.
May your promptings deep inside me
show me what to do and say
in the power of your presence, strength
and courage will increase.
In the wisdom of your guidance
is the path that leads to peace.
And then, I would go into my shower,

and I had a little shower song
that was also getting me ready for this work.
And it goes something like this:

[Sings]
I'm going to brake hard and risk living
though the clouds hang heavy and gray.
If I wait for blue-sky perfection,
I'll be waiting 'til judgment day.
Why let myself to be held hostage
trapped and blocked by who knows what?
While standing still and seeking
sound reverse my faith certainly not.
I'm going to break out and risk living
though the reasons to wait still abound.
I will do what I can in the climate of now
'til brighter days roll around.
So take heart my sisters and brothers.
Give your spirit a holiday.
Away with the reasons delaying the season.
Celebration is the order of the day.

[Returns to spoken word]
And so, here we are having to get out there
and do work sometimes, which we cannot do by ourselves.
Dr. Martin Luther King told us some years ago
that in the work of building up the beloved community
we have cosmic companionship.
So I'd like to remind you that as you do your work day by day,
because you are servants of the Most High God,
you are entitled to be serviced by the power of God.
And so, my closing prayer for you would be:
Lord, look upon each member of this Council
and our fellow citizens.
And whatever our needs are as we seek to be servants
of your love and of your justice,
service us; our bodies, our minds, our spirit and emotions,
our relationship, and our responsibility.
And if you do that for us, we will be happy
to offer you this praise.
And with this, I close.

Every day when I get up, this is what my pledge is
unto the God who has called me.
I say, In the way that I walk, in the way that I talk,
in the way that I think, and in the way that I pray,
in everything I do, I want to honor you
by the way I live each day. Amen.

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

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

Victor Gotbaum, 93, American Labor leader who was former president of AFSCME District Council 37, died on April 5, 2015. Mr. Gotbaum was deemed instrumental in helping the City of New York survive the fiscal crisis of the 1970s. The Speaker (Council Member Mark-Viverito) extended her condolences to his wife, the former Public Advocate Betsy Gotbaum, and to all his extended family. At this point, the floor was yielded to Council Member Miller who spoke briefly in memory of Mr. Gotbaum.

The Speaker (Council Member Mark-Viverito) noted that April 16, 2015 is Holocaust Remembrance Day also known as *Yam HaShoah*. She asked that we remember the experiences of the Holocaust survivors and remember the millions who lost their lives. She further urged that we commit ourselves to ensure that history never repeats itself.

ADOPTION OF MINUTES

On behalf of Council Member Maisel, the Deputy Leader (Council Member Gentile) moved that the Minutes of the Stated Meeting of March 11, 2015 be adopted as printed.

COMMUNICATION FROM CITY, COUNTY & BOROUGH OFFICES

M-271

Communication from the Borough President of Manhattan – Submitting proposed modifications to the Fiscal Year 2016 Preliminary Budget, pursuant to Section 245 of the Charter.

April 7, 2015

Hon. Bill de Blasio

Mayor, City of New York City Hall
New York, NY 10007

Hon. Melissa Mark-Viverito
Speaker, New York City Council City Hall
New York, NY 10007

Dear Mayor de Blasio and Speaker Mark-Viverito:

Pursuant to Section 245 of the New York City Charter, I offer the following recommended modifications of the Preliminary Budget for consideration in the Executive Budget.

I want to thank the Mayor for presenting a Preliminary Budget that continues in the strong progressive direction that the enacted FY2015 City Budget set us on. The $77.7 billion spending plan proposed by the Mayor in February addresses many of the issues facing our City, and in particular, the Borough of Manhattan. However, there are five areas in particular that I suggest additional attention be paid in preparing the Executive Budget. These areas are the continued creation and preservation of permanent affordable housing in Manhattan, addressing the homeless crisis, investing in the necessary infrastructure in our public schools, addressing the mental health needs of our school-aged children, and committing to the necessary capital improvements in our public libraries.

Since the release of the Preliminary Budget, my office has sought input from the members of our community to make sure any unmet needs were highlighted and could be addressed during the budget process. A large component of this review was the creation of the FY2016 Manhattan. Borough Board Budget Priorities Report, as required by Section 241 of the New York City Charter. Based on the recommendations received from that process, I would like to propose the following potential modifications to the budget for inclusion in the Executive Budget.

After the release of Mayor de Blasio's "Housing New York" plan a year ago, my office took steps to support the creation of new affordable housing here in Manhattan in accordance with the plan. In particular, we submitted a list of sites our 12 Community Boards recommended of desired locations to build new affordable housing. I ask that we work to ensure the needs of Manhattan communities are met in this budget, in locations where the community has expressed such a need. While the administration has proposed certain regulatory text amendments to spur development, and has proposed additional new developments citywide, the cost difficulties that discourage the development of full and permanent affordable housing in Manhattan remain. I recommend that a financial commitment dedicated to funding the development of new permanent affordable housing in Manhattan be incorporated into this budget.

Secondly, I want to commend the Mayor for recognizing that our homeless crisis is worsening and for taking steps to address it in an appropriate manner. The proposal for an additional $28.4 million to be spent for rental assistance and support to move the homeless out of shelters and into permanent housing is an approach that

is supported by the residents of Manhattan. And while these funds will be well spent in that manner, I feel that more will be necessary to combat our record levels of homelessness. According to the Independent Budget Office (IBO) the City now projects it will be able to move 6,551 households into permanent housing this year with these new funds. However, they also warn that the funding for additional placements in future years is uncertain, and therefore the long-term impact of these programs on the city's homeless shelter population—and shelter costs—may be less than anticipated. I recommend that the funds for rental assistance for the homeless be increased further in the Executive Budget proposal and that future funding be committed in the out years.

Shifting to education, we all realize that modern technology in schools is no longer a luxury reserved for the fortunate; it is a necessity for all school children to keep pace with their peers. I commend the Mayor for the proposed increases to public education, including $340 million for expanded Universal Pre-K and $190 million to further expand after school programs. However, the proposed budget falls short in funding for technology in schools. Enough schools already struggle with the costs of acquiring new equipment, but an equally alarming stumbling block to connectivity is the lack of adequate bandwidth in our aging school buildings. This makes it difficult or in some cases impossible for students to access the full benefits of new technology. The shortfall for new technology acquisition is something I plan to address in my Section 211 capital allocations where possible. However, I urge you to address the larger issue of aging infrastructure that limits the bandwidth in our older school buildings, including basic electricity in some cases. This would allow for an increase in STEM instruction in fully outfitted labs, and urban farming tutorial in electrical green houses and on green roofs.

Another crucial education issue this budget addresses is the overall well-being of our school-aged children by funding 128 Community Schools and 94 Renewal Schools. These innovative models for education recognize that our schools need to be more than just places of academic instruction for many children, and in addition they must provide supplementary resources to meet their needs. However, I would like to see this recognition go further with regards to the mental health needs of students and I recommend we offer professional and culturally competent mental health services in every public school. While the current proposal would provide mental health services as part of a host of additional resources available to students at these particular Community and Renewal schools, the need for access to professional mental health services at all public schools is an issue we should address in this budget.

With regards to our public libraries, many of these buildings need basic improvements to modernize them and make them more user friendly for their visitors, while other buildings are aging at a rapid pace and must been renovated in order to ensure the health and safety of their patrons. Funding for library renovations in many cases falls on my fellow Borough Presidents and I, as well as the City Council, to commit capital dollars for our local libraries where we can. But the demonstrated needs here in Manhattan far outweigh what we are capable of funding. I recognize that the Preliminary Ten-Year Capital Plan recommends $17 million for existing New York Public Library projects, but the total need at these facilities is likely somewhere in the hundreds of millions. I recommend that the Executive

Budget express a commitment to fund additional public library renovations and improvements, closer in line with what is needed, as part of the Capital Plan.

While the continued lack of transparency in units of appropriation within the Preliminary Budget makes it difficult to identify potential cuts in the Borough of Manhattan, there are areas of the budget that could be reduced to offset any of my recommendations, and my office is happy to work with you to identify these areas.

Thank you for your consideration of these proposals, and I look forward to your response. If you have any questions or concerns, please contact Deputy Manhattan Borough President, Joseph N. Garba, at 212-669-8300 or tgarba@manhattanbp.nye.gov.

Sincerely,

Gale A. Brewer

Received, Ordered, Printed and Filed.

LAND USE CALL UPS

M-272

By Council Member Garodnick:

Pursuant to Rule 11.20(b) of the Council and §20-226 or §20-225 of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 181 East 78th Street, Borough of Manhattan, Community Board No. 8, Application No. 20155354 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote.

M-273

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

Pursuant to Rule 11.20(c) of the Council Rules and Section 197-d(b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Review Procedure (ULURP) application no. C 150174 PQX shall be subject to Council review. This item is related to Application no. C 150175 HAX which is subject to Council review pursuant to Section 197-d(b)(1) of the New York City Charter.

Coupled on Call – Up Vote

M-274

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

Pursuant to Rule 11.20(c) of the Council Rules and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Review Procedure (ULURP) application no. C 150197 ZSX shall be subject to Council review. This item is related to Application no. N 150196 HAX which is subject to Council review pursuant to Section 197-d(b)(1) of the New York City Charter.

Coupled on Call – Up Vote

M-275

By Council Member Johnson:

Pursuant to Rule 11.20(b) of the Council and Section 197-d(b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Review Procedure Application No. C 140404 ZSM shall be subject to Council review.

Coupled on Call – Up Vote

M-276

By Council Member Johnson:

Pursuant to Rule 11.20(b) of the Council and Section 197-d(b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Review Procedure Application No. C 140405 ZSM shall be subject to Council review.

Coupled on Call – Up Vote

LAND USE CALL UP VOTE

The Deputy Leader (Council Member Gentile) put the question whether the Council would agree with and adopt such motions which were decided in the **affirmative** by the following vote:

Affirmative – Arroyo, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dickens, Dromm, Espinal, Eugene, Ferreras, Garodnick, Gentile, Gibson, Greenfield, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Matteo, Mealy, Menchaca, Mendez, Miller, Palma, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Ulrich, Vacca, Vallone, Weprin, Williams, Ignizio, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **50.**

At this point, the Deputy Leader (Council Member Gentile) declared the aforementioned items **adopted** and referred these items to the Committee on Land Use and to the appropriate Land Use subcommittee.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Civil Rights

Report for Int. No. 261-A

Report of the Committee on Civil Rights in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on consumer credit history.

The Committee on Civil Rights, to which the annexed amended proposed local law was referred on April 10, 2014 (Minutes, page 1118), respectfully

REPORTS:

I. Introduction

On April 14, 2015, the Committee on Civil Rights ("the Committee"), chaired by Council Member Darlene Mealy, will hold a hearing to vote on Proposed Introductory Bill Number 261-A ("Int. No. 261-A"), a local law to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on one's consumer credit history. The Committee held a hearing on Introductory Bill Number 261 on September 12, 2014.

II. Background

Studies demonstrate that many employers use consumer credit history when making employment decisions regarding current employees and applicants for employment. This practice has had an adverse impact on many individuals seeking employment opportunities and financial growth. A study conducted by Demos in 2013 on the use of employment credit checks found that "one in seven of all respondents who have poor credit say they've been told they would not be hired for a job because of the information in their credit report."[1] Similarly, a survey conducted by the Society for Human Resource Management in 2012 found that approximately 47 percent of employers use credit checks to make hiring decisions.[2] Of this total, 13 percent of respondents conducted credit checks on all prospective employees while 34 percent of respondents conducted the checks on candidates for certain positions, such as those with financial responsibilities. Demos' report found that a potential employer requested to check the credit score of one in four survey respondents as part of a job application.[3] Demos also found that credit checks were prevalent for filling positions that did not traditionally involve financial decision making on behalf of an employer, such as "jobs as diverse as doing maintenance work, offering telephone tech support, assisting in an office, working as a delivery driver, selling insurance, laboring as a home care aide, supervising a stockroom, and serving frozen yogurt."[4]

III. Credit Reports

Despite the now common use of credit history by employers, credit reports were originally developed as a tool for lenders to determine whether they should offer a loan to a potential borrower. Credit reports, which track a person's "financial history including credit use, late payments, and credit inquiries as well as public information related to finances, such as bankruptcies," can help lenders predict the risk of default associated with a prospective borrower.[5]

While there is no law that prohibits employers from using credit reports or making employment decisions based on credit reports, employers have certain obligations if they use credit reports. For instance, the federal Fair Credit Reporting Act ("FCRA") requires a prospective employer to certify that it has disclosed to a potential employee that a credit report may be ordered for employment purposes and

[1] Traub, A., Discredited - How Employment Credit Checks Keep Qualified Workers Out of a Job, Demos, 1, Feb. 2013. Available at http://www.demos.org/sites/default/files/publications/Discredited-Demos.pdf (last visited April 14, 2015).
[2] Society for Human Resource Management, SHRM Survey Findings: Background Checking – The Use of Credit Background Checks in Hiring Decisions, Jul. 19, 2012. Available at http://www.shrm.org/research/surveyfindings/articles/pages/creditbackgroundchecks.aspx (last visited April 10, 2015).
[3] Id., at 1.
[4] Id., at 1.
[5] Smith, G., "Bridging the Gap: Credit Scores and Economic Opportunity in Illinois Communities of Color," Woodstock Institute, September 2010.

that the credit report will not be used in violation of any federal or state equal employment opportunity laws.[6] Additionally, if an employer takes an adverse action against an applicant or employee on the basis of his or her credit report, the employer must give that employee notice of his or her rights under FCRA[7]. In an effort to protect consumers from employer misuse at the state level, New York's Fair Credit Reporting Act ("the Act") has similar requirements for prospective employers.[8] Nevertheless, pursuant to the Act, job applicants who refuse to authorize a credit report may be excluded from consideration for an employment position.[9]

Proponents for the use of credit reports in making employment decisions suggest that credit reports are an indicator of job performance and/or one's likelihood of engaging in counter-productive work behavior- such as theft or fraud- because credit reports illustrate an individual's ability to manage finances.[10] However, the value that credit reports offer employers is unclear. Research shows there is no correlation between an individual's credit history and job performance.[11] Significantly, credit reporting agencies have not been successful in proving that any such connection exists. Eric Rosenberg, Director of State Government Relations for TransUnion (one of the three primary for-profit credit reporting agencies in the country), testified before the Oregon State legislature in 2011: "at this point we don't have any research to show any statistical correlation between what's in somebody's credit report and their job performance or their likelihood to commit fraud."[12]

The use of credit reports to determine the performance or integrity of a potential employee or applicant is particularly problematic since credit reports are often inaccurate. A Federal Trade Commission ("FTC") study done in 2013 found that 21 percent of Americans had an error on at least one of the credit reports produced by the top three credit reporting agencies,[13] and that for 13 percent of consumers, the mistakes were significant enough to alter their credit score.[14] While consumers have the ability to dispute errors on their reports, the errors often persist, resulting in prolonged inaccuracy.[15] The FTC found that 26 percent of respondents identified at least one potentially material error on at least one of their three credit reports and for almost 70 percent of participants for which there was FTC follow up, respondents contended that at least one piece of previously disputed information in their report was inaccurate over two years later.[16]

[6] 15 U.S.C. §1681(b).
[7] Id.
[8] N.Y. GBL § 380-b.
[9] Id.
[10] Testimony of Eric Ellman on behalf of the Consumer Data Industry Association, *Hearing on Introductory Bill Number 261*, September 12, 2014, Committee on Civil Rights, at 80.
[11] Laura Koppes Bryan and Jerry K. Palmer, "Do Job Applicant Credit Histories Predict Performance Appraisal Ratings or Termination Decisions?" The Psychologist-Manager Journal, 2012.
[12] See http://www.nytimes.com/2011/05/30/opinion/30mon3.html (Last visited April 13, 2015).
[13] The three main credit reporting agencies in the United States are Equifax, Experian and TransUnion. See http://www.usa.gov/topics/money/credit/credit-reports/bureaus-scoring.shtml (Last visited April 13, 2015).
[14] Supra note 2, at 10.
[15] Federal Trade Commission. Available at http://www.ftc.gov/system/files/documents/reports/section-319-fair-accurate-credit-transactions-act-2003-sixth-interim-final-report-federal-trade/150121factareport.pdf (Last visited April 13, 2015).
[16] Id.

Further, studies demonstrate that using an individual's credit report as an indicator of the person's ability to responsibly manage finances may be inaccurate since poor credit is often linked to unemployment, lack of healthcare coverage, and medical debt.[17] Demos' 2013 study found a cyclical relationship between unemployment and poor credit history: 31 percent of households where one member had been out of work for two months or longer reported a decline in their credit score during the period of unemployment.[18] Demos also found that households with a person lacking health coverage are "more than twice as likely to report that their credit score has declined in the past three years."[19] Additionally, Federal Reserve Board researchers found that 52 percent of all accounts reported by collection agencies consisted of medical debt.[20] For 15 million Americans, medical debt is the only debt they have in collections in their credit report.[21] According to a study by Harvard Medical School, medical costs are the reason for 62 percent of bankruptcy filings.[22]

Studies also demonstrate that the use of credit reports in the hiring process has a potentially disproportionate impact on communities of color, who, as a demographic group, have historically had lower credit ratings.[23] A 2006 Brookings Institution study on credit trends in the United States found that counties with a higher concentration of communities of color tended to have lower credit scores.[24] Though the report was careful to note that credit calculation formulas do not include any racial data, and though it avoided suggesting a bias in credit calculations or a causal relationship between race and credit scores, it acknowledged "the numerous, historical disparities between races in the access to and availability of high quality education, well-paying jobs, and access to loans, among other factors."[25] The findings of Demos' 2013 survey largely mirrored this demographic trend: among white respondents, 65 percent reported having good or excellent credit scores, while over half of African-American respondents reported having fair or bad credit.[26]

The use of credit reports in the hiring process can also have a disparate effect on women who are victims of domestic violence. A study by the University of Pennsylvania found that domestic violence victims often incur "coerced debt," which occurs when an "abuser in a violent relationship obtains credit in the victim's name via fraud or coercion."[27] The study found that abusers use different tactics, "including secretly taking out credit cards in victims' names, coercing victims into signing loan documents, and tricking victims into relinquishing their rights to the

[17] Id., at 1.
[18] Id., at 1.
[19] Id., at 1.
[20] Robert Avery, Paul Calem, Glenn Canner & Raphael Bostic, "An Overview of Consumer Data and Credit Reporting," Federal Reserve Bulletin, 2003.
[21] See http://www.washingtonpost.com/news/get-there/wp/2014/12/11/medical-debt-is-ruining-the-credit-score-of-millions-of-americans/ (Last visited April 13, 2015).
[22] See http://www.pnhp.org/new_bankruptcy_study/Bankruptcy-2009.pdf (Last visited April 13, 2015).
[23] Fellows, M., "Credit scores, Reports, and Getting Ahead in America," The Brookings Institution, at 9.
[24] Fellows, M., "Credit scores, Reports, and Getting Ahead in America," The Brookings Institution, at 9.
[25] Id. at 10.
[26] Id. at 1.
[27] Litwin, Angela. "Escaping Battered Credit: A Proposal For Repairing Credit Reports Damaged By Domestic Violence." University of Pennsylvania Law Review. 2013.

family home." Furthermore, the study found that victims likely do not discover the debt that has been taken out in their name until they attempt to leave their abuser, at which point "much of the debt is delinquent or in danger of becoming so."[28]

Finally, beyond the inaccuracies contained within credit reports, the lack of any real link between credit history and work behavior, and the discriminatory nature of credit checks, studies demonstrate that many job applicants whose credit reports negatively impact their candidacy are not given the opportunity to explain their credit history.[29] According to the 2012 survey conducted by the Society for Human Resource Management, eight percent of prospective employers did not give applicants an opportunity to explain their negative credit report, and 28 percent only allowed applicants to offer an explanation after the hiring decision was made.[30] Of the 64 percent of employers that allowed applicants to explain their credit histories, it is unclear what percent of employers dismissed medical or educational debt.[31]

IV. Efforts to Limit Employers' Use of Credit Reports

Legislation restricting employers' use of credit checks has been passed in California, Connecticut, Hawaii, Illinois, Maryland, Oregon, Vermont, and Washington.[32] Though no such legislation has been passed in New York State, various pieces of legislation have been introduced in the legislature to address this issue.[33] For example, the "Credit Privacy in Employment Act," A.2372/S.1545-A, the first version of which was introduced in January 2013, would prohibit an employer from making employment decisions on the basis of one's credit history unless required to do so by state or federal law, and would require employers who take adverse action based on a credit report to give the candidate an opportunity to explain any negative information contained in the report.[34] While the New York State Assembly passed this bill in its last session, it was not passed by the New York State Senate.[35] There has not been a vote on this bill during this legislative session.[36]

At the federal level, the "Equal Employment for All Act," H.R. 645/S.1837, was introduced in the 113th Congress, but has not been reintroduced in the 114th Congress.[37] The "Equal Employment for All Act" would have amended FCRA to prohibit current and prospective employers from using consumer credit reports for

[28] Id.
[29] Id., at 2.
[30] Id., at 2.
[31] Id., at 2.
[32] Supra note 2, at 13.
[33] See New York State Assembly, Bill Number A.2372/S.1545-A. Available at http://assembly.state.ny.us/leg/?default_fld=&bn=A02372&term=2015&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y (Last visited April 13, 2015).
[34] Id.
[35] See New York State Assembly, Bill Number A-2372. Available at http://assembly.state.ny.us/leg/?default_fld=&bn=A02372&term=2015&Summary=Y&Actions=Y&Votes=Y&Memo=Y&Text=Y (Last visited April 13, 2015).
[36] Id.
[37] See United States Congress, Bill Number H.R. 645/S.1837. Available at https://www.congress.gov/bill/113th-congress/house-bill/645 (Last visited April 13, 2015).

the purposes of making employment decisions.[38] The bill would have also granted certain exceptions to the prohibition, including for positions which require a national security or Federal Deposit Insurance Corporation clearance, positions in state or local government agencies that require credit background checks, and senior-level positions at financial institutions.[39]

V. Summary of Int. No. 261-A

a. Prohibitions

Int. No. 261-A has been proposed in an effort to further the City's goal of discouraging discrimination in employment through the use of consumer credit history. Int. No. 261-A would amend the City's Human Rights Law by making it an unlawful discriminatory practice for any employer, labor organization, or employment agency to request or use the consumer credit history of an employee or an applicant for employment for the purpose of making any employment decisions. Int. No. 261-A would prohibit such discrimination in hiring, compensation, and other terms of employment.

Int. No. 261-A would define "consumer credit history" to include an individual's credit worthiness, credit standing, credit capacity, and payment history as indicated by: (i) a consumer credit report; (ii) credit score; or (iii) information an employer obtains directly from an individual regarding details about credit accounts, including number of credit accounts, late or missed payments, charged-off debts, items in collections, credit limit, prior credit report inquiries, and bankruptcies, judgments or liens. Further, Int. No. 261-A would define "consumer credit report" as any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing, credit capacity or credit history. Notably, Int. No. 261-A does not prohibit employers from using consumer credit history for employment purposes where using such information is required by federal or state law or regulation, or by a self-regulatory organization as defined by the Securities Exchange Act of 1934. Further, Int. No. 261-A does not preclude an employer from requesting or receiving consumer credit history information pursuant to a lawful subpoena, court order or law enforcement investigation. And, Int. No. 261-A does not prohibit employers from obtaining publically accessible information such as public information related to bankruptcies, judgments or liens. The bill targets the use of credit reports, credit scores and information obtained directly from a job applicant or employee, such as through inquiries contained in a job application or questions asked during a job interview.

b. Exceptions

[38] Id.
[39] Id.

Due to the sensitive nature of various employment positions that require additional layers of security, Int. No. 261-A would exclude a number of positions from the credit check prohibition. Such positions would include:

- Police and peace officers, as defined in the Criminal Procedure Law;

- Department of Investigation ("DOI") positions in law enforcement or where investigative functions are involved;

- Appointed positions subject to a DOI background investigation that are deemed to carry a high degree of public trust, as determined by the Commission on Human Rights through rulemaking;

- Employees who are required to be bonded under City, state, or federal law—this exception applies only where the employee is personally required to be bonded;

- Employees required to possess security clearance under federal law or any state law;

- Non-clerical positions that have regular access to trade secrets, intelligence information or national security information;

- Positions with signatory authority over third-party funds or assets valued at $10,000 or more;

- Positions with a legal fiduciary responsibility[40] to the employer and the authority to enter financial agreements on behalf of the employer valued at $10,000 or more per agreement;

- Positions that regularly allow an employee to modify digital security systems established to prevent the unauthorized use of the employer's or the employer's client's networks or databases; and

- Employees obligated by section 12-110 of the New York City Administrative Code or by Mayoral Executive Order to disclose information to the Conflicts of Interest Board regarding creditors or debts.

c. Licensing

[40] Black's Law Dictionary defines "fiduciary duty" as a duty of utmost good faith, trust, confidence, and candor owed by a fiduciary (such as an agent or a trustee) to the beneficiary (such as the agent's principal or the beneficiaries of the trust); a duty of utmost good faith, trust, confidence, and candor owed by a fiduciary (such as a lawyer or corporate officer) to the beneficiary (such as a lawyer's client or a shareholder); a duty to act with the highest degree of honesty and loyalty toward another person and in the best interests of the other person (such as the duty that one partner owes to another). See Black's Law Dictionary (10th ed. 2014).

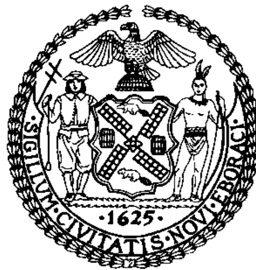
Int. No. 261-A would also prohibit agencies from requesting or using consumer credit history for licensing and permitting purposes. However, Int. No. 261-A would not prohibit agencies from using an individual's consumer credit history for licensing and permitting when such use is required by state or federal law or regulations. Further, Int. No. 261-A would not prohibit an agency from considering failure to pay any tax, fine, penalty, or fee for which liability has been admitted by the person liable, or for which judgment has been entered by a court or administrative tribunal of competent jurisdiction. Additionally, Int. No. 261-A would not prohibit an agency from considering any tax for which a government agency has issued a warrant or a lien or levy on property. Finally, as with employers, Int. No. 261-A would not prohibit licensing agencies from requesting, receiving, or using consumer credit history information obtained pursuant to a lawful subpoena, court order or law enforcement investigation.

d. Reporting Requirement

Int. No. 261-A would require the Commission on Human Rights to request information from City and non-governmental employers regarding their use of the exemptions in the bill for purposes of hiring and employment. Int. No. 261-A would also require the Commission to submit a report to the Council, which the Council would review, regarding the results of its requests and any relevant feedback from agencies and employers.

The bill would take effect one hundred twenty days after enactment.

(The following is the text of the Fiscal Impact Statement for Int. No. 261-A:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 261-A

COMMITTEE: Civil Rights

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on consumer credit history.	**SPONSORS:** Council Members Lander, Rose, Arroyo, Chin, Dickens, Dromm, Ferreras, Garodnick, King, Koslowitz, Levin, Mendez, Richards, Van Bramer, Williams, Wills, Gentile, Gibson, Constantinides, Levine, Miller, Reynoso, Rosenthal, Torres,

Menchaca, Kallos, Cornegy, Cumbo, Crowley, Johnson, Eugene, Treyger, Rodriguez, Cabrera, Espinal, Barron, Mealy, Vallone, Koo, Deutsch, Maisel, Cohen and the Public Advocate (Ms. James).

SUMMARY OF LEGISLATION: The legislation would require the New York City Human Rights Commission (the “Commission”)

The Commission is scheduled to submit an a report to the Mayor and the Council within two years of the effective date of this local law, the commission shall submit to the council a report concerning the results of such request and any relevant feedback from agencies and employers. The information required by this law would first be included in its March 2017 report and then in each annual report thereafter.

EFFECTIVE DATE: This local law shall take effect one hundred twenty days after enactment.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: March 1, 2017.

FISCAL IMPACT STATEMENT:

	Effective FY17	FY Succeeding Effective FY18	Full Fiscal Impact FY18
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.

IMPACT ON EXPENDITURES: Since the Commission already publishes an annual report, the Commission could comply with the requirements of this proposed legislation using existing resources. There would be no impact on expenditures as a result of the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: NA

SOURCES OF INFORMATION: New York City Commission on Human Rights

ESTIMATE PREPARED BY: Eisha Wright, Unit Head, Finance Division

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director, Finance Division

Rebecca Chasan, Assistant Counsel, Finance Division

Tanisha Edwards, Chief Counsel, Finance Division

LEGISLATIVE HISTORY: Intro. 261-A was introduced by the Council on April 10, 2014 and referred to the Committee on Civil Rights. The Committee considered the legislation at a hearing on September 12, 2014 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 261-A, will be voted on by the Committee at a hearing on April 16, 2015. Upon successful vote of the Committee, Proposed Intro. 261-A will be submitted to the full Council for a vote on approximately , 2015

DATE PREPARED:

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 261-A:)

Int. No. 261-A

By Council Members Lander, Rose, Arroyo, Chin, Dickens, Dromm, Ferreras, Garodnick, King, Koslowitz, Levin, Mendez, Richards, Van Bramer, Williams, Wills, Gentile, Gibson, Constantinides, Levine, Miller, Reynoso, Rosenthal, Torres, Menchaca, Kallos, Cornegy, Cumbo, Crowley, Johnson, Eugene, Treyger, Rodriguez, Cabrera, Espinal, Barron, Mealy, Vallone, Koo, Deutsch, Maisel, Cohen and the Public Advocate (Ms. James).

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting discrimination based on consumer credit history.

Be it enacted by the Council as follows:

Section 1. Section 8-102 of the administrative code of the city of New York is amended by adding a new subdivision 29 to read as follows:

29. The term "consumer credit history" means an individual's credit worthiness, credit standing, credit capacity, or payment history, as indicated by: (a) a consumer credit report; (b) credit score; or (c) information an employer obtains directly from the individual regarding (1) details about credit accounts, including the individual's number of credit accounts, late or missed payments, charged-off debts, items in collections, credit limit, prior credit report inquiries, or (2) bankruptcies, judgments or liens. A consumer credit report shall include any written or other communication of any information by a consumer reporting agency that bears on a consumer's creditworthiness, credit standing, credit capacity or credit history.

§ 2. Section 8-107 of the administrative code of the city of New York is amended by adding a new subdivision 24 to read as follows:

24. Employment; consumer credit history. (a) Except as provided in this subdivision, it shall be an unlawful discriminatory practice for an employer, labor organization, employment agency, or agent thereof to request or to use for employment purposes the consumer credit history of an applicant for employment or employee, or otherwise discriminate against an applicant or employee with regard to hiring, compensation, or the terms, conditions or privileges of employment based on the consumer credit history of the applicant or employee.

(b) Paragraph (a) of this subdivision shall not apply to:

(1) an employer, or agent thereof, that is required by state or federal law or regulations or by a self-regulatory organization as defined in section 3(a)(26) of the securities exchange act of 1934, as amended to use an individual's consumer credit history for employment purposes;

(2) persons applying for positions as or employed:

(A) as police officers or peace officers, as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of the criminal procedure law, respectively, or in a position with a law enforcement or investigative function at the department of investigation;

(B) in a position that is subject to background investigation by the department of investigation, provided, however, that the appointing agency may not use consumer credit history information for employment purposes unless the position is an appointed position in which a high degree of public trust, as defined by the commission in rules, has been reposed.

(C) in a position in which an employee is required to be bonded under City, state or federal law;

(D) in a position in which an employee is required to possess security clearance under federal law or the law of any state;

(E) in a non-clerical position having regular access to trade secrets, intelligence information or national security information;

(F) in a position: (i) having signatory authority over third party funds or assets valued at $10,000 or more; or (ii) that involves a fiduciary responsibility to the employer with the authority to enter financial agreements valued at $10,000 or more on behalf of the employer.

(G) in a position with regular duties that allow the employee to modify digital security systems established to prevent the unauthorized use of the employer's or client's networks or databases.

(c) Paragraph (a) of this subdivision shall not be construed to affect the obligations of persons required by section 12-110 of this code or by mayoral executive order relating to disclosures by city employees to the conflicts of interest board to report information regarding their creditors or debts, or the use of such information by government agencies for the purposes for which such information is collected.

(d) As used in this subdivision:

(1) The term "intelligence information" means records and data compiled for the purpose of criminal investigation or counterterrorism, including records and data relating to the order or security of a correctional facility, reports of informants, investigators or other persons, or from any type of surveillance associated with an identifiable individual, or investigation or analysis of potential terrorist threats.

(2) The term "national security information" means any knowledge relating

to the national defense or foreign relations of the United States, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States government and is defined as such by the United States government and its agencies and departments.

(3) The term "trade secrets" means information that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; and (c) can reasonably be said to be the end product of significant innovation. The term "trade secrets" does not include general proprietary company information such as handbooks and policies. The term "regular access to trade secrets" does not include access to or the use of client, customer or mailing lists.

(e) Nothing in this subdivision shall preclude an employer from requesting or receiving consumer credit history information pursuant to a lawful subpoena, court order or law enforcement investigation.

§ 3. Subdivision 9 of section 8-107 of the administrative code is amended by adding a new paragraph (d) to read as follows:

(d) (1) Except as otherwise provided in this paragraph, it shall be an unlawful discriminatory practice for an agency to request or use for licensing or permitting purposes information contained in the consumer credit history of an applicant, licensee or permittee for licensing or permitting purposes.

(2) Subparagraph (1) of this paragraph shall not apply to an agency required by state or federal law or regulations to use an individual's consumer credit history for licensing or permitting purposes.

(3) Subparagraph (1) of this paragraph shall not be construed to affect the ability of an agency to consider an applicant's, licensee's, registrant's or permittee's failure to pay any tax, fine, penalty, or fee for which liability has been admitted by the person liable therefor, or for which judgment has been entered by a court or

administrative tribunal of competent jurisdiction, or any tax for which a government agency has issued a warrant, or a lien or levy on property.

(4) Nothing in this paragraph shall preclude a licensing agency from requesting, receiving, or using consumer credit history information obtained pursuant to a lawful subpoena, court order or law enforcement investigation.

§ 4. The commission on human rights shall request information from City agencies and non-governmental employers regarding the agencies' and employers' use of the exemptions established in subdivision 24 of section 8-107 of the administrative code for purposes of hiring and employment. Within two years of the effective date of this local law, the commission shall submit to the council a report concerning the results of such request and any relevant feedback from agencies and employers.

§ 5. This local law shall take effect one hundred twenty days after enactment.

DARLENE MEALY, *Chairperson*; MATHIEU EUGENE, DANIEL DROMM, DEBORAH L. ROSE, ANDREW L. KING; Committee on Civil Rights, April 14, 2015. *Other Council Members Attending: Lander*

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

Report of the Committee on Environmental Protection

Report for Int. No. 271-A

Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the New York city charter, 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.

The Committee on Environmental Protection, to which the annexed amended proposed local law was referred on April 10, 2014 (Minutes, page 1137), respectfully

REPORTS:

Introduction

On April 15, 2015 the Committee on Environmental Protection, chaired by Council Member Richards, will conduct a hearing to vote on Int. No. 271-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. The Committee previously considered an earlier version of this bill on April 23, 2014.

Background for Proposed Int. No. 271-A

Air pollution in New York City is a major concern, contributing to approximately 6% of all deaths.[1] Pollutants of concern include fine particulate matter, nitrogen oxides, elemental carbon, and sulfur dioxide.[2] New York City's air quality consistently violates the EPA's National Ambient Air Quality Standards for criteria pollutants, and the city is designated a nonattainment area for ozone (O_3) and fine particulate matter ($PM_{2.5}$) pursuant to the Clean Air Act.[3] Other pollutants such as nitrous oxides (NO_x), sulfur dioxides (SO_2), and nickel also remain at unsafe concentrations in our air.[4] 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.[5] Long-term exposure to fine particulate matter has been linked to reduced lung function (SO_2), chronic bronchitis, cardiovascular disease, and premature death.[6] Sulfur dioxide, which converts in the atmosphere to sulfate particles, can cause difficulty breathing, increased respiratory symptoms, and aggravation of existing heart disease.[7] SO_2 also contributes to lower visibility and acid deposition, the latter of which has been of great concern in New York State because it contributes to the formation of acid rain, which damages plant and animal life, buildings and electrical equipment.

In 1970, New York City passed the Air Pollution Control Code (the Code) to help alleviate these and other pollutants from the multifarious sources from which they are emitted. Although parts of the Code have been amended over time, and now parts have been added, the entire code has not received a thorough revision since the original passage. Int. No. 271 seeks to make such a revision.

Summary of Proposed Int. No. 271-A

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 one of the bill amends 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.

Section two of the bill amends chapter 1 of title 16 of the code by adding provisions relating to refuse compacting systems in multiple dwellings.

Section three 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 four 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 boilers and water heaters from 2.8 m/Btu to 4.2 m/Btu.

Sections five through eight 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 nine 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 ten 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 eleven and twelve 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 thirteen through fifteen 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 sixteen through thirty-three 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. Section 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.

Section thirty-four of the bill amends subchapter seven of the Air Code, which establishes standards for the use and maintenance of equipment and apparatus, updates the provisions on idling vehicles, 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).

Section thirty-six 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-seven through forty-three 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.

Sections forty-five through fifty-three 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.

In conclusion, the proposed amendments to the Code have the potential to continue the City's long history of cleaning up the air, thereby reducing pollution-related morbidity and mortality.

Changes to Proposed Int. No. 271-A

- Technical changes were made to the bill to improve organization and readability.

- Multiple definitions have been clarified, new definitions have been added for the terms "refuse compacting system," "process," and "asbestos project notification."

- An advisory committee was added to advise DEP on future rule promulgations relating to emissions control technologies.

- Certain engines are forbidden from being used on construction sites without first being registered with DEP.

- Notices of petitions for variances will be published by DEP on the Internet.

- Certain trucks used by the Department of Transportation and air vacuums are exempted from having to obtain work permits before they are altered or installed.

- DEP's process for suspending, revoking and renewing asbestos handling certificates is clarified.

- Asbestos removal work that is stopped by DEP due to a condition that is immediately curable may resume work as soon as the condition is corrected.

- Abatement orders that are issued verbally by DEP due to airborne particulate matter issues on construction sites will be lifted immediately upon DEP's determination that the condition has been corrected.

- Definitions of "existing fireplace" and "new fireplace," "new" and "existing" char broilers, and "new" and "existing" cook stove have been amended.

- A fireplace will be deemed an "existing fireplace" if the application for its construction has been filed before this Law is effective.

- Fireplaces and wood burning heaters may be used as a primary source of heat in emergency situations.

- The soonest dates on which DEP may promulgate rules relating to certain existing char broilers and new char broilers have been moved later in time.

- A method was added calculate the amount of meat cooked by a facility using a char broiler.

- Effective date for a certificate of operation for first time registration of stationary engines was moved from one year after the law is enacted to January 1, 2018.

- Starting January 1, 2025, the certificates of operation for stationary generators that must meet certain emissions standards will only be renewed if their owner or operator demonstrates that they meet specified emissions standards, except in cases of undue hardship.

- An exemption to the requirements for stationary engines was added for emergency stationary reciprocating internal combustion engines.

- The city does not have to purchase zero or partial zero emission vehicles when DEP determines it would be impractical to do so, provided that the next highest rating category available for such vehicles is selected.

- A phase out schedule for school buses that do not utilize a closed crankcase ventilation system was added, phasing out such school buses by 2020.

- The waiver of fees for mobile vending units equipped with an auxiliary engine meeting tier four emissions standards is limited to engines installed within 18 months of the effective date of the law.

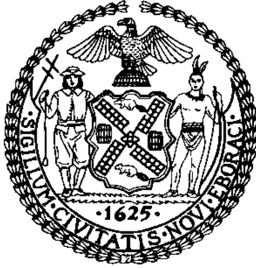
- The Commissioner may recommend no civil penalty on a first violation of the sections on air contaminant detectors and recorders and air combustion shutoff, provided that the respondent admits liability, files a certification that the violation has been corrected and the Commissioner accepts such certification. Such violations may be used to impose penalties for subsequent violations of the same type.

[1] http://www.nyc.gov/html/dep/html/air/index.shtml

[2] http://www.nyc.gov/html/dep/html/air/air_pollutants_in_nyc.shtml
[3] 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
[4] Id.
[5] Id.
[6] Environmental Defense Fund, 2009. *The Bottom of the Barrel: How the Dirtiest Heating Oil Pollutes Our Air and Harms Our Health.*
[7] US EPA, Health and Environmental Impacts of SO_2, *at* http://www.epa.gov/air/urbanair/so2/hlth1.html.

(The following is the text of the Fiscal Impact Statement for Int. No. 271-A:)

1053 April 16, 2015



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 271-A

COMMITTEE: ENVIRONMENTAL PROTECTION

TITLE: A Local Law to amend the New York city charter, the administrative code of New York city, the New York city building code, and the New York city mechanical code, in relation to the New York city air pollution control code.

SPONSORS: Council Members Richards, Chin, Constantinides, Koo, Johnson, Rosenthal, Lancman, Rodriguez, Torres, Reynoso, Koslowitz, Kallos, Crowley, Arroyo, Levin and Van Bramer

SUMMARY OF LEGISLATION: Proposed Intro. No.271-A would amend and create new sections of the the New York City Air Pollution Control Code, which has not been updated since its creation in 1971, to protect and improve the air quality of the City. The bill would bring the City into compliance with the more stringent laws, rules and, regulations set forth by New York State and the federal government related to air quality standards. The legislation would create new civil penalties for violations of the Code and makes amendments to current civil penalties.

Effective Date: This local law would take effect one year after its enactment except that the commissioner of environmental protection may, before such effective date, take all actions necessary, including the promulgation of rules, to implement this local law on such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: FISCAL YEAR 2017

FISCAL IMPACT STATEMENT:

	Effective FY16	FY Succeeding Effective FY17	Full Fiscal Impact FY17
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES: Although this legislation contemplates the imposition of civil penalties for violations of the Code, the Council assumes compliance with legislation and therefore estimates that there would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from this legislation since the Department of Environmental Protection would comply with all of the requirements of the proposed legislation using existing resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division
Department of Environmental Protection

ESTIMATE PREPARED BY: Jonathan K. Seltzer, Legislative Financial Analyst

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director, Finance Division
Rebecca Chasan, Assistant Counsel, Finance Division
Tanisha Edwards, Chief Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 271 on April 10, 2014 and referred to the Committee on Environmental Protection. The Committee considered the legislation at a hearing on April 23, 2014 and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 271-A, will be considered by the

Committee on April 15, 2015. Upon a successful vote by the Committee, Proposed Intro. No. 271-A will be submitted to the full Council for a vote on April 16, 2015.

DATE PREPARED: April 13, 2015

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 271-A:)

Int. No. 271-A

By Council Members Richards, Chin, Constantinides, Koo, Johnson, Rosenthal, Lancman, Rodriguez, Torres, Reynoso, Koslowitz, Kallos, Crowley, Arroyo, Levin and Van Bramer.

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.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 1049-a of the New York city charter, as amended by vote of the electors of the city of New York at a general election held on November 2, 2010, is amended to read as follows:

a. There shall be in the office of administrative trials and hearings an environmental control board consisting of the commissioner of environmental protection, the commissioner of sanitation, the commissioner of buildings, the commissioner of health and mental hygiene, the police commissioner, the fire commissioner and the chief administrative law judge of the office of administrative trials and hearings, who shall be chair, all of whom shall serve on the board without compensation and all of whom shall have the power to exercise or delegate any of their functions, powers and duties as members of the board, and six persons to be appointed by the mayor, with the advice and consent of the city council, who are not otherwise employed by the city, one to be possessed of a broad general background and experience in the field of air pollution control, one with such background and experience in the field of water pollution control, one with such background and experience in the field of noise pollution control, one with such background and experience in the real estate field, one with such background and experience in the business community, and one member of the public, and who shall serve for four-year terms. Such members shall be compensated at a rate that may be specified by the chair and approved by the mayor. Within the board's appropriation, the chair may appoint an executive director, subject to the approval of the board, and such hearing officers, including non-salaried hearing officers, and other employees as the chair may from time to time find necessary for the proper performance of the board's duties. *The board shall be convened by the chairperson or in his or her absence a*

deputy commissioner of the office of administrative trials and hearings or at the request of any three members thereof. Five members of the board, at least two of whom shall not be city officials, shall constitute a quorum.

§ 2. Title 16 of the administrative code of the city of New York is amended by adding a new section 16-120.2 to read as follows:

§16-120.2 Refuse compacting systems; multiple dwellings after May twentieth, nineteen hundred sixty-eight.

(a) Definitions. When used in this section:

"Refuse compacting system" means any machine or system of machines capable of reducing refuse by means other than burning so that such refuse is reduced by a volume to be determined by the commissioner and is suitable for collection by the department.

(b) All multiple dwellings erected after May twentieth, nineteen hundred sixty-eight that are four or more stories in height and occupied by twelve or more dwelling units, or that are "class B" multiple dwellings as defined by the multiple dwelling law shall be provided with a refuse compacting system constructed in conformity with all applicable laws and rules.

(c) On and after the effective date of the local law that added this section, any refuse compacting system that is required to be installed in a multiple dwelling pursuant to subdivision a of this section shall be utilized to compact all refuse that is not required to be source separated for other purposes pursuant to any provision of this title or any rules promulgated by the department in such multiple dwelling before such refuse is placed outside for collection by the department. Such refuse compacting system shall be maintained in good working condition and operated in accordance with the rules of the department and in conformity with all other applicable laws and rules.

(d) Any person who violates the requirements of this section shall be liable for a civil penalty of two hundred fifty dollars for the first offense, five hundred dollars for the second offense committed within any twelve-month period and one thousand dollars for the third and any subsequent offense committed within any twelve-month period. For purposes of this section, the second and any subsequent violation shall only occur after notice of the first violation has been properly served and an opportunity to cure such violation has been provided to the violator, provided that such opportunity to cure shall not exceed thirty days. Such penalties may be recovered in a civil action brought in the name of the commissioner or in a proceeding before the environmental control board.

§ 3. Subchapter 1 of chapter 1 of title 24 of the administrative code of the city of New York, section 24-102 and subdivision 18 of section 24-104 as amended by local law number 39 for the year 1989 and subdivision 48 of section 24-104 as amended by local law number 22 for the year 2002, is amended to read as follows:

SUBCHAPTER 1

SHORT TITLE, POLICY, AND DEFINITIONS

§24-101 Short title. [chapter] *Chapter* one of this title of the code of the city of New York shall be known and may be cited as the "New York city air pollution control code".

§24-102 Declaration of policy. It is hereby declared to be the public policy of the city to preserve, protect and improve the air [resources] *quality* of the city so as to promote health, safety and welfare, prevent injury to human, plant and animal life and property, foster the comfort and convenience of its inhabitants and[, to the greatest degree practicable,] facilitate the enjoyment of the natural attractions of the city. It is the public policy of the city that every person is entitled to air that is not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the emission into the open air of *any* harmful or objectionable substance, including but not limited to smoke, soot, fly ash, dust, fumes, gas, vapors, odors or any products of combustion or incomplete combustion resulting from the use of fuel burning equipment or refuse burning equipment is a menace to the health, welfare and comfort of the people of the city and a cause of extensive damage to property. For the purpose of controlling and reducing air pollution, it is hereby declared to be the policy of the city to actively regulate and eliminate such emissions. The necessity for legislation by the enactment of the provisions of this chapter is hereby declared as a matter of legislative determination. This code shall be liberally construed so as to effectuate the purposes described in this section. Nothing herein shall be construed to abridge the emergency powers of the board of health of the department of health and mental hygiene or the right of such department to engage in any of its necessary or proper activities.

§24-104 Definitions. When used in the New York city air pollution control code:

[(1) Air contaminant] *"Air" means all the respirable gaseous mixture available for human, animal or plant respiration.*

"Air contaminant" means any [particulate matter] *particulates, aerosol* or any gas or any combination thereof in the open air, other than uncombined water [or air].

[(2) Air contaminant detector] *"Air contaminant detector"* means a device or combination of devices [which] *that* cause audible and/or visible signals in the presence of an air contaminant of a particular concentration, density or opacity.

[(3) Air contaminant recorder] *"Air contaminant recorder"* means an apparatus [which] *that* produces a record of the time, duration, concentration and density or opacity of an air contaminant.

[(4) Alteration] *"Air pollution" means the presence in the open air of one or more contaminants in quantities, of characteristics and of a duration that are or may be injurious to human, animal or plant life or to property or that unreasonably interfere with the comfortable enjoyment of life and property.*

"Alteration" means any modification or change of the design, capacity, process or arrangement, or any increase in the connected load of equipment or *any* apparatus [which] *that* will affect the kind [or amount] of air contaminant emitted *or increase the amount of an air contaminant emitted*. Alteration does not include replacement or repair of [wornout] *worn out* or defective equipment.

[(5) Anthracite coal] *"Anthracite coal"* means [the current definition of] anthracite coal as classified by the [American society for testing and materials] *ASTM standard D388-12*.

[(6) Apparatus] *"Apparatus"* means any device [which] *that* prevents, controls, detects, or records the emission of any air contaminant *from fuel burning equipment*.

[(7) Bituminous coal means the current definition of bituminous coal and subbituminous coal as classifed by the American society for testing and materials.

(8) Board] *"Architectural coating" means coating to be applied to stationary structures and their appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Adhesives and coatings applied in shop applications or to nonstationary structures such as airplanes, ships, boats, railcars, and automobiles are not considered architectural coatings for the purposes of this code.*

"*Biodiesel" means a fuel, designated B100, that is composed exclusively of mono-alkyl esters of long chain fatty acids derived from feedstock and that meets the specifications of ASTM standard D6751-12.*

"Bioheating fuel" means a fuel comprised of biodiesel blended with petroleum heating oil that meets the specifications of ASTM standard D396-12, or other specifications as determined by the commissioner.

"Board" means the environmental control board of the city of New York.

[(9) Boiler] *"Boiler"* means equipment [which] *that* is used to heat water for the purpose of generating hot water and/or steam.

[(10) Btu input means the quantity of heat generated by a fuel fed into a furnace under conditions of complete combustion, measured in British thermal units. Btu input includes sensible heat, calculated above sixty degrees F., available from materials introduced into the combustion zone.

(11) Capacity rating] *The hot water and/or steam generated by a boiler may be used for heating, processing, or generating power or for other purposes, including but not limited to, cooking and sanitation.*

"British thermal unit" or "Btu" means the amount of energy needed to heat one pound of water by one degree Fahrenheit.

"Capacity rating" means the fuel burning equipment manufacturer's guaranteed maximum [Btu] *heat* input rating in millions of Btu per hour, or the maximum four-hour average actual rate, whichever is higher.

[(12) Certificate] *"Certificate of operation"* means [an operating, sulfur exemption, temporary operating, or temporary sulfur exemption certificate] *a document issued by the department authorizing the operation of a specific piece of equipment or apparatus that may emit an air contaminant*.

[(13) Charter] "*Chain-driven commercial char broiler" means a commercial char broiler that is a semi-enclosed cooking device with a mechanical chain that automatically moves food through the device.*

"Charter" means the New York city charter[, including all of its amendments].

[(14) City] *"City"* means the city of New York.

[(15) Combustion controller] *"City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.*

"Clean wood" means wood or wood pellets that have not been painted, stained, or treated with any coating, glue or preservative.

"Cogeneration system" means equipment for the simultaneous production of electricity and heat from a single fuel source, such as natural gas, biomass, waste heat, or oil. Cogeneration system is also known as a combined heat and power system.

"Combustion controller" means an apparatus [which] *that* automatically *and* continually maintains the proper fuel to air ratio for the optimum combustion of fuel.

[(16) Combustion shutoff] *"Combustion shutoff"* means an apparatus [which] *that* is designed to halt automatically a combustion process when proper combustion conditions are not being maintained.

[(17) Commissioner] *"Commercial char broiler" means a device that consists primarily of a grated grill and a heat source and that is used to cook meat, including beef, lamb, pork, poultry, fish, and seafood, for human consumption at a food service establishment, as such term is defined in section 81.03 of the New York city health code.*

"Commissioner" means *the* commissioner of environmental protection.

[(18) Control apparatus] *"Control apparatus"* means any device [which] *that* prevents or controls the emission of [any] *an* air contaminant.

[(19) Department] *"Cook stove" means any wood fired or anthracite coal fired appliance used primarily for cooking food for onsite consumption at a food service establishment, as such term is defined in section 81.03 of the New York city health code.*

"Demolition" means the complete or partial removal, razing, or dismantling of any exterior part of a building or structure.

"Department" means *the* department of environmental protection.

[(20) Dust] *"Dust"* means solid [particulate matter which has] *particulates that have* been released into the [open] air by natural forces or by *manual or* mechanical processes.

[(21) Emission] *"Emergency generator" means an internal combustion engine that operates as a mechanical or electrical power source only when the usual source of power is unavailable.*

"Emission" means dispersion of an air contaminant into the open air of the city.

[(22) Emission rate potential] *"Emission rate potential"* means the rate in pounds per hour at which *an* air contaminant would be emitted to the open air in the absence of air pollution control facilities or other control measures. The emission rate potential for cyclic operations shall be determined by considering both the instantaneous emission potential and the total emission potential over the time period of the cycle.

[(23) Emission source] *"Emission source"* means a point at which an emission occurs.

[(24) Environmental rating] *"Engine" means a motor designed to convert energy into useful mechanical motion.*

"Environmental rating" means a rating [indicated by the letters A, B, C or D in table 1, section 24-153 of the code] *as established in part two hundred twelve of title six of the New York codes, rules and regulations*.

[(25) Equipment] *"Equipment"* means any device capable of causing the emission of an air contaminant into the open air, or any stack, conduit, flue, duct, vent or similar device connected or attached to, or serving such device.

[(26) Equipment used in a process means equipment (except refuse burning equipment or fuel burning equipment) used in any industrial, commercial, agricultural or other activity, or in any operation, manufacture or treatment in which chemical, biological or physical properties of materials are changed.

(27) Excess air means the quantity of air which exceeds the theoretical quantity of air required for complete combustion.

(28) Exhaust and ventilation source] *"Exhaust" or "ventilation source"* means a system [which] *that* removes [and] *or* transports *an* air contaminant to the exterior of a building or other structure.

[(29) Fuel burning equipment] *"Experimental installation" means equipment not previously used or tested in the city, or equipment using fuel not regulated by this code or rules promulgated thereunder.*

"Fireplace" means a hearth and fire chamber or similar prepared place in which a fire may be made and which is built in conjunction with a chimney.

"Flare" means an open or closed flame gas combustion device used for burning off unwanted gas or flammable gas. A flare may include some or all of the following components: the foundation, flare tip, structure support, burner, ignition, flare controls including air injection or steam injection systems, flame arrestors, knockout pots, piping and header systems.

"Fuel burning equipment" means equipment, other than a motor vehicle, designed to burn *oil, natural gas, or renewable* fuel.

[(30) Installation] *"Fuel oil grade no. 1" means a fuel oil meeting the definition of fuel oil grade no. 1 as classified by ASTM standard D396-12.*

"Fuel oil grade no. 2" means a fuel oil meeting the definition of fuel oil grade no. 2 as classified by ASTM standard D396-12.

"Fuel oil grade no. 4" means a fuel oil meeting the definition of fuel oil grade no. 4 as classified by ASTM standard D396-12.

"Fuel oil grade no. 6" means a fuel oil meeting the definition of fuel oil grade no. 6 as classified by ASTM standard D396-12.

"Generator" means any internal combustion engine that operates as a mechanical or electrical power source.

"Heat input" means the quantity of heat generated by fuel fed into equipment under conditions of complete combustion, measured in British thermal units. Heat input includes sensible heat, calculated above sixty degrees Fahrenheit, available from materials introduced into the combustion zone.

"Horsepower" means a unit of power in the United States Customary System, equal to 745.7 watts or thirty-three thousand foot-pounds per minute.

"Installation" means the placement, assemblage or construction of equipment or apparatus at the premises where the equipment or apparatus will be used, and includes all preparatory work at such premises.

[(31) Major deficiency means a defect in the design and/or installation that may cause the equipment to generate unnecessary air pollution.

(32) Minor deficiency means a defect in the design and/or installation that does not accomplish or provide the monitoring or maintenance capability required by the permit issued to install or alter the equipment.

(33) Motor vehicle] *"Kilowatt" means a unit of electrical power equal to one thousand watts.*

"Mobile food vending unit" shall have the same meaning as set forth in section 89.03 of the New York city health code.

"Motor vehicle" means equipment [which] *that* is propelled by an engine in or upon which a person or material may be transported on the ground.

[(34) Odorous air contaminant] *"Odorous air contaminant"* means any air contaminant [which] *that* is released in sufficient concentrations to be detected by the human olfactory sense.

[(35) Open air] *"Open air"* means all the air available for human, animal, or plant respiration, but shall not include the air in equipment and private dwellings.

[(36) Open fire] *"Open fire"* means any *outdoor* fire *or smoke producing process* wherein the products of combustion are emitted directly into open air and are not directed thereto through a stack, conduit, flue, duct, vent or similar device.

[(37) Owner] *"Outdoor wood boiler" means a device designed to burn wood that is either located outdoors or is specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans, and is used to heat building space or water by means of gas or liquid heated in the device.*

"Owner" means and includes the owner [of the freehold] of the premises or lesser estate therein or mortgagee thereof, a lessee or an agent of any of the above persons, a lessee of the equipment or his or her agent, a tenant, operator, or any other person who has regular control of equipment or apparatus.

[(38) Particulate matter means any liquid, other than water, or any solid which is or tends to be capable of becoming windblown or being suspended in air, or other gas or vapor which becomes a solid or liquid at standard conditions of thirty-two degrees F. and 14.7 psia. Particular matter measured on a dry basis shall be comprised of all materials collected at two hundred fifty degrees F. on and prior to the dry filter medium which achieves an efficiency greater than 99.9 per cent for particles 0.3 microns in diameter based on dioctyl phthalate smoke] *"Particulate" means any air or gas-borne material, except water, that exists as a liquid or solid. The quantity of particulates present in a stack shall be determined in accordance with emission testing methods as prescribed by the commissioner by rule. As used in this code, particulate matter shall have the same meaning as particulates.*

[(39) Permissible emission rates] *"Peak shaving" means the practice of utilizing on-site generating capacity for use at a facility at the request of the primary electricity supplier, provided that peak shaving shall not include emergency*

generation when the usual sources of heat, power, and lighting are temporarily unavailable.

"Permissible emission rates" means the maximum rate in [lbs. hr.] *pounds per hour (lbs./hr.)* at which air [contaminant may] *contaminants are allowed to* be emitted to the open air.

[(40) Permit means an installation or alteration permit.

(41) Person] *"Person"* means individual or partnership, company, corporation, association, firm, organization, governmental agency, administration or department, or any other group of individuals, or any officer or employee thereof.

[(42) Portable equipment] *"Portable" means (i) designed to be and capable of being carried or moved from one location to another, and (ii) not kept at one location for more than twelve consecutive months. Mechanisms indicating that an object is designed to be and capable of being carried or moved from one location to another include, but are not limited to, wheels, skids, carrying handles or platforms.*

"Portable equipment" means equipment designed to be transported from place to place for temporary operation[, other than a motor vehicle, or lawn mower, snowblower or other similar domestic, non-commercial equipment] *and to provide heat or hot water*.

[(43) Process weight means total weight of the materials including solid fuels introduced into any specific process but excluding liquid and gaseous fuels and combustion air.

(44) Process weight per hour means process weight divided by the number of hours from the beginning of any specific process to the completion of the process, excluding any time during which the equipment used in the process is idle.

(45) Professional certification] *"Portable generator" means any internal combustion engine whose uses may include, but are not limited to, the generation of electric power, designed to be and capable of being carried or moved from one location to another.*

"Process" means any industrial, commercial, agricultural or other activity, operation, manufacture or treatment in which chemical, biological and/or physical properties of the material or materials are changed, or in which the material(s) is conveyed or stored without changing the material(s) (where such conveyance or storage system is equipped with a vent(s) and is non-mobile), and which emits air contaminants to the outdoor atmosphere. A process does not include an open fire, operation of a combustion installation, or incineration of refuse other than by-products or wastes from processes.

"Professional certification" means certification by a professional engineer or registered architect who is licensed to practice engineering or architecture under section seven thousand two hundred two or seven thousand three hundred two of the education law.

[(46) Refuse burning equipment] *"Professional engineer" means a person licensed and registered to practice the profession of engineering pursuant to the New York state education law.*

"Refuse burning equipment" means equipment designed to burn [waste material, garbage and refuse] *biological materials from hospitals or crematoriums,*

waste material burned for the purpose of energy generation, or such other material as may be designated by the department by rule.

[(47) Refuse compacting system means any machine or system of machines capable of reducing waste material and garbage by means other than burning. So that it reduces by a volume to be determined by the commissioner and is suitable for collection by the department.

(48) Refuse containerization system means any system for the disposal of waste material and garbage jointly approved as to specifications by the department of health and mental hygiene, the department of housing preservation and development and the department pursuant to section 27-2021 of the code, which utilizes containers compatible with mechanical loading systems on vehicles operated for the collection of refuse.

(49) Residual fuel oil] *"Registered architect" is a person licensed and registered to practice the profession of architecture pursuant to the New York state education law.*

"Registered design professional" means a professional engineer or registered architect.

"Registration" means a notification to the department of the use or operation of equipment that may result in the emission of an air contaminant.

"Renewable biomass" means crops and crop residue from existing agricultural land, tree residues, animal waste material and byproducts, slash and pre-commercial thinnings from non-federal forest land, biomass cleared from the vicinity of buildings and other areas to reduce the risk of wildfire, algae, and separated yard waste or food waste. Such term shall not include processed materials such as particle board, treated or painted wood and melamine resin-coated panels.

"Renewable fuel" means fuel produced from renewable biomass or captured from landfills or wastewater treatment.

"Residual fuel oil" means a fuel oil meeting the current definition of fuel oil grades No. 5 and 6 as classified by the [American society for testing and materials] *ASTM standard D396-12*.

[(50) Scrubber] *"Scrubber"* means a control apparatus [which] *that* uses water or other fluids to remove *an* air contaminant from [a gas] *an exhaust* stream.

[(51) Solid fuels means anthracite and bituminous coal, or coke as currently defined by the American society for testing and materials.

(52) Standard smoke chart] *"Standard smoke chart"* means the Ringelmann chart, as published by the United States bureau of mines, photographically reduced to 1/18th in size for use in the field.

[(53) This code] *"Stationary" means (i) not designed to be or capable of being carried or moved from one location to another, or (ii) kept at one location for more than twelve consecutive months.*

"Stationary reciprocating compression ignition internal combustion engine" shall have the same meaning as set forth in section 60.4219 of title forty of the code of federal regulations.

"This code" means the air pollution control code.

"Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

"Under-fired commercial char broiler" means a commercial char broiler that has a grill, a high temperature radiant surface, and a heat source that is located below the food.

"Water heater" means a boiler used to heat and store water.

"Wood burning heater" means any enclosed, permanently installed, indoor device burning pellets designed to be used primarily for aesthetic purposes.

"Work permit" means a permit issued for the installation or alteration of a device or apparatus.

§ 4. Subchapter 2 of chapter 1 of title 24 of the administrative code of the city of New York, paragraphs 3 and 4 of subdivision (b) of section 24-109 as amended by local law number 48 for the year 1989, subdivision (f) of section 24-109 as amended by local law number 49 for the year 1985, as redesignated pursuant to section 14 of chapter 907 of the laws of 1985, is amended to read as follows:

SUBCHAPTER 2

GENERAL PROVISIONS

§24-105 General powers of the commissioner. *(a)* Subject to the provisions of this code, the commissioner may take such action as may be necessary to control the emission of *any* air contaminant [which] *that* causes or may cause, by itself or in combination with other air [contaminant] *contaminants*, detriment to the safety, health, welfare or comfort of the public or to a part thereof, injury to plant and animal life, or damage to property or business. The commissioner may exercise or delegate any of the functions, powers and duties vested in him or her or in the department by this code. The commissioner may adopt such rules, regulations and procedures as may be necessary to effectuate the purposes of this chapter*, including rules, regulations and procedures to establish fees and to authorize and encourage the development and use of environmentally beneficial technologies*.

(b) The commissioner shall appoint an advisory committee, which shall include but need not be limited to representatives of the restaurant industry and related industries, representatives of the construction industry, representatives of the environmental protection and environmental justice communities, persons with expertise regarding the health effects of pollutants associated with cooking devices, and may include employees of the department and of other relevant city agencies. The city council may appoint a representative to serve on the committee. The committee shall provide advice and recommendations to the department relating to the development and use of emissions control technologies for commercial char broilers and shall assist the department in the development of rules regarding emissions control technologies. The commissioner shall consult with the committee regarding any proposed amendments of such rules. In the development of such rules the commissioner shall consider factors such as the availability and cost of proposed technologies.

§24-106 Investigations and studies by commissioner. The commissioner may make or cause to be made any investigation or study [which] *that* in his or her opinion is desirable for the purpose of enforcing this code or controlling or reducing the amount or kind of air [contaminant] *contaminants*. For such purposes, the

commissioner may make tests, conduct hearings, compel the attendance of witnesses, and take their testimony under oath and may compel the production of books, papers and other things reasonably necessary to the matter under consideration.

§24-107 Testing by order of commissioner. (a) If the commissioner has reasonable cause to believe that any equipment or fuel is in violation of this code, the commissioner may order the owner of the equipment or fuel to conduct such tests as are necessary in the opinion of the commissioner to determine whether the equipment, its operation, or the fuel is in violation of this code, or whether material used in any manufacturing process is contributing to any violation of this code and to submit the test results to the commissioner within ten days after the tests are completed.

(b) Such tests shall be conducted in a manner approved by the commissioner. The test shall be certified by a laboratory acceptable to the commissioner. The entire test results shall be reviewed and certified by a professional engineer.

(c) The owner shall notify the commissioner of the time and place of a test at least seven days before the commencement of such test. Reasonable facilities shall be made available for the commissioner to witness the test.

(d) If in the opinion of the commissioner tests by the department are necessary, the commissioner may order the owner to provide *(1)* sampling holes at such points in the stack, conduit, flue, duct or vent, as the commissioner may reasonably request, to provide a power source suitable to the points of testing, and to provide allied facilities, exclusive of sampling and sensory devices*, or (2) test ports for gas burning equipment*. These provisions shall be made at the expense of the owner of the equipment. The owner shall be furnished with copies of the analytical results of the samples collected.

(e) If the results of tests conducted pursuant to this section show that the equipment or fuel is in violation of this code, the commissioner shall order the owner to cure the defect within thirty days.

§24-108 Inspection and samples. (a) The department may inspect at any reasonable time and in a reasonable manner any equipment, apparatus, *or* fuel[, matter or thing which] *that* affects or may affect the emission of *an* air contaminant including but not limited to the premises where the equipment, apparatus, or fuel is used, or where the fuel is stored, purchased, sold, or offered for sale for use in the city of New York [city].

(b) The department may inspect at any reasonable time and in a reasonable manner any record relating to a use of equipment or apparatus [which] *that* affects or may affect the emission of *an* air contaminant, or relating to the use of fuel, or the distribution, storage or transportation of fuel for use in *the city of* New York [city].

(c) The department may, at any reasonable time and in a reasonable manner, obtain a sample of *an* air contaminant[, fuel, process material, or other material which] *or any other substance used in a process that* affects or may affect the emission of *an* air contaminant.

(d) If an authorized employee of the department obtains a sample of *an* air contaminant[, fuel, process material or other material which] *or any other substance used in a process that* affects or may affect the emission of *an* air contaminant during

the course of an inspection, he or she shall give to the owner of the equipment or fuel, prior to leaving the premises, a receipt for the sample obtained.

(e) No person shall refuse entry or access into *a place of business or into* the public areas of a multiple dwelling [or a place of business] to an authorized employee of the department who presents appropriate credentials nor shall any person refuse entry or access into any other portion of a premises to an authorized employee of the department who presents appropriate credentials and a search warrant.

(f) The owner of every building, other than a one- or two-family [home] *dwelling*, shall make the area where the heating system [or refuse burning equipment, or both,] is located readily accessible to members of the department pursuant to the requirements of section 27-2033 *of the code*.

§24-109 Registrations [generally]. (a) [In addition to the registrations required by subdivision (b) of this section the commissioner may order the written registration of emission sources other than those located in one or two family dwellings and motor vehicles. A period of sixty days from publication in the City Record of the commissioner's order shall be allowed for the filing of such registration. In cases of an emergency, the commissioner may designate a shorter period of time.

(b)] No person shall cause or permit the following unless he or she has first registered with the department:

(1) [the] *The* spraying of any insulating material in or upon any building or other structure during its construction, alteration or repair[;].

(2) [the] *The* demolition of any building or other structure, *or part thereof,* unless the *demolition of the* building or structure is being [demolished pursuant to chapter one of title seventeen or article eight of subchapter two of chapter one of title twenty-six of the code] *conducted by or on behalf of a city agency pursuant to chapter one of title seventeen of the code or pursuant to an order issued by the department of buildings under article two hundred fifteen of chapter two of title twenty-eight of the code*.

(3) The installation, alteration, use or operation of [any fuel burning equipment which in the aggregate, feeding into a common emission point,] *an individual boiler or water heater that* has a [Btu] *heat* input [or gross output] equal to or greater than three hundred fifty thousand Btu per hour but less than [one] *four* million *two hundred thousand* Btu per hour.

(4) The installation, alteration, use or operation of [any fuel burning equipment which] *any boilers, including water heaters, that are owned by the same person in a single building and would not individually require a registration or certificate of operation, if* in the aggregate[, feeding into a common emission point, has] *such boilers have* a [Btu] *heat* input [or gross output] equal to or greater than three hundred fifty thousand Btu per hour [but less than 2.8 million Btu per hour and which uses a fuel gas, gasoline, or fuel oil grades Nos. 1 or 2 as classified by the American society for testing and materials]. *Such boilers shall be registered together in a single registration.*

(5) The use or operation of fuel burning equipment or portable equipment with a heat input equal to or greater than three hundred fifty thousand Btu per hour but less than four million two hundred thousand Btu per hour, except as otherwise provided in this section.

(6) The use or operation of any emergency generator that has an output equal to or greater than forty kilowatts.

(7) The use or operation of any portable generator with an output equal to or greater than forty kilowatts.

(8) The use or operation of a portable engine with an input equal to or greater than fifty horsepower but less than six hundred horse power, unless such engine is used to power self-propelled construction or landscaping equipment.

(9) The use or operation of a stationary generator, other than an emergency generator, with an output equal to or greater than forty kilowatts but less than four hundred fifty kilowatts.

(10) The use or operation of a stationary engine with an input of equal to or greater than fifty horsepower but less than six hundred horsepower.

(11) The use or operation of an engine with an input equal to or greater than fifty horsepower that is used exclusively at a construction site, unless such engine is used to power self-propelled construction or landscaping equipment.

(12) The use or operation of equipment with an environmental rating of C that produces a flow rate equal to or greater than one hundred standard cubic feet per minute but less than two thousand standard cubic feet per minute.

(13) The use or operation of a cogeneration system that has a total input equal to or greater than three hundred fifty thousand Btu per hour but less than four million two hundred thousand Btu per hour.

(14) The installation, use or operation of any flare.

(15) The installation, use or operation of any gasoline dispensing station.

(16) The installation, alteration, use or operation of any commercial char broiler.

(17) Any other emission source or activity not listed in paragraphs one through sixteen of this subdivision that the commissioner requires by rule to be registered with the department, provided that the commissioner shall not require by rule the registration of an engine used to propel a motor vehicle or any emission source or activity located in a one- or two-family dwelling.

(b) Registration shall not be required for any fuel burning equipment for which a certificate of operation is required pursuant to subchapter four of this code.

(c) Registration shall be [made] *filed* on forms [furnished] *prescribed* by the department.

(1) [Forms for registration pursuant to subdivision (a) of this section may require information concerning the unit of equipment covered by the registration, the kind and amount of air contaminant emitted by the equipment, medical and other scientific information concerning the effects of the air contaminant on persons, animals, and plants, and any additional information required by the commissioner for the purpose of enforcing this code.

(2) Forms for registration pursuant to paragraph one of subdivision (b) of this section shall require information concerning the kind and amount of insulating material that will be sprayed, the composition of the insulating material, medical and other scientific information concerning the effects of the insulating material on persons, animals, and property, the precautions that will be taken to prevent the

insulating material from being emitted into the open air, and any additional information required by the commissioner for the purpose of enforcing this code. Registration for spraying of insulating material shall be filed at least five days prior to commencement of such spraying work.

(3) Forms for registration pursuant to paragraph two of subdivision (b) of this section shall require information concerning the kind and amount of particulate matter that it is reasonably anticipated may be released as a result of the demolition, the precautions that will be taken to prevent particulate matter from becoming air-borne, and any additional information required by the commissioner for the purpose of enforcing this code.

(4) The registrant shall maintain the registration in current status by notifying the commissioner of any change in any item of information furnished in compliance with this section, other than a change in ownership, within a reasonable time not to exceed fifteen days] *An application for the registration of any boiler shall include documentation that the boiler has passed a combustion efficiency test. The commissioner shall specify by rule the requirements for such test.*

(2) (i) An application for the registration of any generator shall include documentation that the generator has passed a smoke test performed in accordance with the procedures set forth in "Method 9 - Visual determination of the opacity of emissions from stationary sources," Appendix A-4 to part sixty of title forty of the code of federal regulations, or documentation in the form of certification by a professional engineer or registered architect that a stack test has been performed in accordance with the rules of the department.

(ii) The department may require that any portable generator being registered for the first time be made available for a smoke test to be conducted by the department before the application for registration will be processed. If the department conducts such smoke test, the documentation required in subparagraph (i) of this paragraph shall not be required.

(iii) The requirements of this paragraph shall not apply to any newly installed generator that is being registered for the first time and that is equipped with an engine certified to the tier four emissions standards established by the United States environmental protection agency as set forth in table one of section 1039.101 of title forty of the code of federal regulations or to any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent, provided that the requirements of this paragraph shall apply to such generator upon renewal of such registration.

(d) Registration shall be [made] *filed* by the following persons:

(1) [If the registrant is a partnership or group other than a corporation, the registration shall be made by an individual who is a member of the group.

(2) If the registrant is a corporation, the registration shall be made by an officer of the corporation.

(3) In the case of registration pursuant to subdivision (a) of this section by the owner of the equipment.

(4)] In the case of registration pursuant to paragraph one of subdivision [(b)] *(a)* of this section, by the [person] *contractor* responsible for the [construction, alteration

or repair of the building or other structure in or upon which] spraying [will occur] *of the insulating material*.

[(5)] *(2)* In the case of registration pursuant to paragraph two of subdivision [(b)] *(a)* of this section, by the [person] *contractor* responsible for the demolition [of the building or structure] *activity*.

(3) In the case of registration pursuant to any other paragraph of subdivision (a) of this section, by the owner of the equipment or his or her authorized agent.

(e) [Registration shall be made in duplicate. Upon approval thereof, a stamped] *After a registration has been approved, the department shall return an approved copy to the registrant. The approved* copy [of the registration shall be returned to the registrant, and] shall be displayed in accordance with section 24-113 of this subchapter.

(f) [Registration of equipment or apparatus shall be valid for a period of up to three years from the date of approval of the initial registration or renewal, unless sooner revoked or cancelled by the commissioner. Where a registration is renewed after its expiration, the registration fee charged in accordance with the provisions of this part shall be increased on a monthly pro-rated basis for the period of time between such expiration and renewal, unless it is shown to the satisfaction of the commissioner that registration was not required under the provisions of this chapter.] *Any registrant, except a registrant of equipment described in paragraphs seven or eight of subdivision (a) of this section, shall notify the department within fifteen days of any change in the information submitted in the registration. If the change in information relates to a change in ownership of the equipment then the new owner shall notify the department of the change.*

(g) Registrations shall be valid for up to three years from the date of approval, unless cancelled by the department. Registrations shall be renewed in a timely manner prior to expiration. A registration that has been expired for a period of one year or more shall be considered cancelled by the department. Applications for registration renewals shall be submitted on a form prescribed by the department.

(h) The application for a registration of new equipment shall indicate whether the new equipment is replacing existing registered equipment. The existing registration shall be cancelled upon registration of the new equipment.

(i) The registrant shall notify the department when removing registered equipment, and the registration shall be cancelled upon such notification.

§24-110 Variances. (a) The commissioner may grant individual variances[, except to governmental agencies, beyond the limitations prescribed by this code,] whenever it is found, upon presentation of adequate proof, that compliance with any provision of this code, or with any regulation or order of the commissioner in respect to this code, would impose unreasonable hardship. In granting a variance the commissioner may impose such conditions as the policies of this code may require and shall [publish in the City Record] *post on the Internet, through a web portal that is linked to nyc.gov or any successor website maintained by or on behalf of the city of New York,* no later than seven days after the granting of such variance, the variance and a written opinion, stating the facts and reasons leading to his or her decision.

(b) Any variance granted pursuant to this section shall be granted for such period of time[, not to exceed six months,] as shall be specified by the commissioner at the time of the grant of such variance and upon the condition that the person who receives such variance shall [make such periodic progress reports] *provide such documentation* as the commissioner shall specify. Such variance may be extended [for periods not to exceed six months] by affirmative action of the commissioner, but only if satisfactory progress has been shown.

(c) Any person seeking a variance shall do so by filing a petition for variance in a form acceptable to the commissioner. The commissioner shall promptly give written notice of such petition to any person in the city who has in writing requested notice of variance petitions, and shall publish notice of such petition [in the City Record] *for a variance on the Internet, through a web portal that is linked to nyc.gov or any successor website maintained by or on behalf of the city of New York*. If the commissioner, in his or her discretion, concludes that a hearing would be advisable, or if any person files a written objection to the grant of such variance within twenty-one days from the publication of notice [in the City Record] *as described in this subdivision*, then a public hearing shall be held.

(d) The commissioner may grant individual or group variances beyond the sulfur content restriction prescribed by section 24-169 of this code, whenever it is found, upon presentation of adequate proof, that the supply of fuel oil is insufficient to meet the demands of residents of the city of New York for heat, hot water, and electrical power. Where an applicant can show that it has an insufficient reserve of fuel oil meeting the sulfur content requirements of this code and that it is unable to buy a sufficient amount of such fuel oil to meet its fuel oil demands during the pendency of its variance application, the commissioner may grant a variance for up to forty-five days without complying with the procedural [requirement] *requirements* of this section, except for the [publication] requirement of subdivision (a) *to post a written opinion*. During the time in which a temporary variance is running, the commissioner shall review, as soon as practicable, the application for a variance treating it as any other variance application.

[(e) With respect to a variance for the spraying of any substance containing asbestos in or upon a building or other structure during its construction, alteration or repair the commissioner shall in determining undue hardship take cognizance that such construction, alteration or repair was commenced or a permit has been granted for same by the department of buildings prior to August twentieth, nineteen hundred seventy-one or six months thereafter and that a non-asbestos spray material has not been approved for fireproof purposes by the department of buildings.]

§24-111 Interfering with or obstructing departmental personnel. No person shall interfere with or obstruct [the commissioner or] any department employee in carrying out any *official* duty [for the commissioner or the board].

§24-112 False and misleading statements; unlawful reproduction or alteration of documents. (a) No person shall knowingly make a false or misleading statement or submit a false or misleading document to the department as to any matter within the jurisdiction of the department.

(b) No person shall make, reproduce or alter or cause to be made, reproduced or altered a *work* permit, certificate *of operation* or other document issued by the

commissioner or required by this code if the purpose of such reproduction or alteration is to evade or violate any provision of this code or any other law.

§24-113 Display of *work* permits, certificates *of operation, registrations* and other notices[; removal or mutilation prohibited]. (a) Any *work* permit, certificate *of operation* or registration required by this code shall be [displayed in the vicinity of the equipment on the premises designated on the permit or certificate, or in the vicinity of the equipment which will be operated or supervised, or in the case of registration pursuant to subdivision (b) of section 24-109 of this code, in the vicinity of the premises designated on the registration.

(b) A notice containing the provisions of subchapters six, seven and eight of this chapter, or a summary of them, shall be displayed in the vicinity of the equipment of any vessel while it is in waters within the jurisdiction of the city of New York. The notice shall be in the language of the country of registry, and in the language commonly spoken by the crew of the vessel.

(c) A notice printed in not less than twelve point type shall be displayed in the vicinity of fuel burning equipment using residual oil containing information as may be prescribed by the commissioner] *prominently displayed in a manner visible to any person inspecting the equipment, and in the case of registration pursuant to section 24-109 of this code, shall be displayed in the vicinity of the premises designated on the registration*.

§24-114 Enforcement of this code by other than compulsory means. Nothing in this code shall prevent the commissioner from making efforts to obtain voluntary compliance by way of warning, notice or educational means. However, such non-compulsory methods need not be used before proceeding by way of compulsory enforcement.

§24-115 Service of papers. (a) Service of any written notice, order or decision *related to equipment as* required by this code shall be made [on the owner] as follows:

(1) Either by mailing the notice, order or decision directed to the owner of the equipment at the address listed in his or her application, *work* permit or [operating] certificate *of operation* or at the address where the equipment is located; or

(2) By leaving the notice, order or decision with the owner of the equipment, or if the owner is not an individual, with a member of the partnership or group concerned or with an officer or managing agent of the corporation.

(b) Service of any written notice, order or decision *not related to equipment as* required by this code shall be made on a person:

(1) [Either by] *By* mailing the notice, order or decision directed to the person at his or her principal place of business; or

(2) By leaving the notice, order or decision with the person, or if the person is not an individual, with a member of the partnership or group concerned, or with an officer or managing agent of the corporation.

(c) Service of any written notice required by this code shall be made on the department[,] *or the* commissioner [or the board as follows:

(1) Either] by mailing the notice to the commissioner[; or

(2) By leaving the notice at the department with an employee of the department designated for this purpose].

§24-116 Inconsistent provisions. Insofar as the provisions of this code are inconsistent with the provisions of any other title of the code, or any rule or regulation of any governmental agency of the city of New York, the provisions of this code shall be controlling.

§24-116.1 Addition, modification and deletion of referenced standards. The standards referenced in this code, including standards promulgated by ASTM International, may be added to, deleted or modified by rule of the department.

§ 5. The heading of subchapter 3 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

SUBCHAPTER 3

REFUSE BURNING EQUIPMENT[, REFUSE COMPACTING SYSTEMS AND REFUSE CONTAINERIZATION SYSTEMS]*; INCINERATORS AND CREMATORIUMS*

§ 6. Section 24-117 of the administrative code of the city of New York is REPEALED.

§ 7. Section 24-118 of the administrative code of the city of New York is amended to read as follows:

§24-118 Installation of refuse burning equipment, [other than] municipal *equipment*, [prohibited; new installation] *incinerators and crematoriums*. No person shall cause or permit the installation of [refuse burning] equipment[. This prohibition shall not apply to refuse burning equipment operated by] *designed to burn solid waste, as such term is defined in section 16-209 of the code, provided that the following equipment shall not be prohibited*:

(1) [Any] *An incinerator operated by any* hospital, biological laboratory or other medical facility required to incinerate dressings, biological and obstetrical wastes, contagious and infectious materials, disposable syringes and needles, amputations, and [general rubbish] *other materials* under [the public health law] *any state or local laws, or rules* or regulations *promulgated* thereunder; or

(2) [The] *Equipment operated by the* department [or the department of sanitation] in connection with sewage treatment plants [and solid waste disposals] *for energy generation*; or

(3) [The department of transportation in connection with waterborne marine transportation facilities operated under its jurisdiction] *Equipment operated by or on behalf of the department of sanitation in connection with solid waste disposal or processing for energy generation or other resource recovery or such other purposes as may be permitted by the rules of the department; or*

(4) Crematoriums used to reduce human or animal remains to their basic elements using high heat.

§ 8. Section 24-119 of the administrative code of the city of New York is REPEALED.

§ 9. Subchapter 4 of chapter 1 of title 24 of the administrative code of the city of New York, paragraph (2) of subdivision (b) of section 24-122 as amended by local law number 49 for the year 1985 and as redesignated pursuant to section 14 of

chapter 907 of the laws of 1985, subdivision (d) of section 24-122 as added by local law number 49 for the year 1985 and as redesignated pursuant to section 14 of chapter 907 of the laws of 1985, subdivision (b) of section 24-123 as amended by local law number 14 for the year 1989, and subdivision (c) of section 24-125 as added by local law number 58 for the year 1991, is amended to read as follows:

SUBCHAPTER 4

WORK PERMITS AND CERTIFICATES *OF OPERATION*

§24-120 Installation and alteration; *work* permit required. No person shall cause or permit the installation or alteration of equipment or apparatus, except as provided in section 24-121 of this code, without first obtaining a *work* permit from the commissioner, and such other licenses or permits as may be required by other governmental agencies and departments.

§24-121 [Permits,] *Work permits;* exemptions. (a) A *work* permit shall not be required for the installation or alteration of the following equipment or apparatus:

(1) Air conditioning, ventilating, or exhaust systems not designed to remove air [contaminant] *contaminants* generated by or released from equipment *or exhaust systems for controlling steam and heat*.

(2) Air contaminant detector or air contaminant recorder.

(3) *Construction equipment except for generators.*

(4) Deicing storage tanks.

(5) Dilution ventilating systems for control of welding fumes and gases.

[(4) Exhaust systems for controlling steam and heat.

(5) Fuel burning equipment, other than smoke house generators, which in the aggregate has a Btu input or gross output of not more than one million Btu per hour.]

(6) *Equipment with an environmental rating of D.*

(7) Fuel burning equipment [which in the aggregate] *that* has a Btu input or a gross output of less than [2.8] *four* million *two hundred thousand* Btu per hour and uses a fuel gas, *natural gas,* gasoline or fuel oil grade No. 1 or 2 [as classified by the American society for testing and materials].

[(7) Fumigation vaults having an environmental rating of D in accordance with section 24-153 of this code.]

(8) Installations for the preparation of food for on-site consumption or retail purchase, unless required *elsewhere in this code or* pursuant to [regulations] *rules* issued by the commissioner.

(9) Internal combustion engines used to power *any* motor [vehicles] *vehicle* or [other] *any* stationary [engines which have a Btu] *engine that has an* output of not more than [three hundred fifty thousand Btu per hour] *six hundred horsepower*.

(10) Laboratory equipment used exclusively for chemical or physical analyses of non-radioactive material.

(11) Refrigeration equipment used for cold storage.

(12) [Sewing equipment] *Steam safety valves*.

(13) Vents used exclusively by tanks used [in] *for* the storage of[:

(i) Residual and distillate] fuel oil[; or

(ii) (A)], *biodiesel, liquid soap, liquid detergent, tallow or vegetable oil, waxes, or emulsions.*

(14) Vents used exclusively as part of a sanitary or storm drainage systems[; or

(B) steam or air safety valves; or

(iii) Liquid soap, liquid detergent, tallow or vegetable oil, waxes, or emulsions.

(14) Type metal crucible or melting pots used in connection with printing presses and having an environmental rating of D in accordance with section 24-153 of this code].

(15) Vacuum cleaning systems used exclusively for industrial, commercial or residential housekeeping.

(16) [Vents used exclusively for:

(i) Sanitary or storm drainage systems; or

(ii) Steam or air safety valves; or

(iii) Storage tanks.

(17)] Ventilating or exhaust systems for [paint] storage rooms or cabinets *for paint, ink, or solvents*.

[(18)] *(17)* Water cooling towers and water cooling ponds not used for evaporative cooling of process water, or not used for evaporative cooling of condensed water for jet or barometric condensers.

(18) Equipment for which a registration is required pursuant to section 24-109 of the code.

(19) Anti-icing trucks used by the department of transportation.

(20) High-efficiency particulate air (HEPA) vacuum.

(21) Any other equipment or apparatus exempted by the commissioner by rule.

(b) A *work* permit shall not be required for the installation or alteration of equipment or apparatus in one and two-family dwellings.

(c) Although a *work* permit is not required for the installation or alteration of the equipment or apparatus listed in subdivisions (a) and (b) of this section, such equipment and apparatus shall otherwise comply with this code.

(d) A *work* permit shall not be required to begin an alteration of equipment or apparatus if delaying the alteration may endanger life or the supplying of essential services. The department shall be notified in writing of the alteration within twenty-four hours or on the first working day, after the alteration is commenced, and an application for a *work* permit shall be filed within fourteen days after the day the alteration is commenced.

(e) Nothing in this section shall in any way alter, affect, or change any other requirement or law of any other governmental agency or department.

§24-122 [Operating certificates] *Certificates of operation* and renewal of [operating] certificates *of operation*; when required. (a) No person shall cause or permit the use or operation of equipment or apparatus for which [an installation or alteration] *a work* permit is required *without first obtaining a certificate of operation from the commissioner*, except *the use or operation* for the purpose of testing the equipment or apparatus or for the purpose of testing an experimental installation or alteration for a reasonable period of time, [not exceeding thirty days, without first

obtaining an operating certificate from the commissioner. The provisions of this subdivision concerning an experimental installation or alteration shall not apply to an installation or alteration for the purpose of obtaining a sulfur exemption certificate] *as follows:*

(1) Testing of the equipment, apparatus, or experimental installation or alteration is permitted for an initial period of thirty days beginning upon notification to the department of a start date.

(2) If a person discovers during testing of the equipment, apparatus, or experimental installation or alteration that the equipment requires repairs necessitating interruption of the testing, such person shall notify the department of a new start date within ten days of the discovery and shall have an additional period of time not to exceed thirty days from such new start date to test the equipment, provided that the total combined testing period shall not exceed sixty days.

(b) [Except as provided in subdivision (c) of this section, or in paragraphs three and four of subdivision (b) of section 24-109, no] *No* person shall cause or permit the use or operation of the following equipment, or cause or permit the keeping of any such equipment so as to be capable of being used or operated, without first obtaining [an operating] *a* certificate *of operation* from the commissioner.

(1) Fuel burning equipment [using liquid, gaseous or solid fuel];

(2) Equipment used in a process*, except as otherwise provided by the commissioner by rule*;

(3) Portable equipment [powered by an internal combustion engine other than a motor vehicle];

(4) [Refuse burning equipment, including equipment operated by the department;

(5) Any equipment which was required by law to have an operating certificate prior to January ninth, nineteen hundred eighty-three] *Equipment described in subdivisions one through four of section 24-118 of the code*.

(c) [An operating certificate is not required for fuel burning equipment or refuse burning equipment which is in a building to be demolished to permit the erection of a new building if:

(1) The new building application has been approved by the department of buildings; and

(2) Certificates of eviction have been issued by the department of housing preservation and development where required; and

(3) Final order for eviction has been issued.] *No certificate of operation shall be required for equipment for which a registration is required pursuant to section 24-109 of the code.*

(d) [(1) An operating] *A* certificate *of operation* for equipment[, except refuse burning equipment,] shall be valid for a period of up to three years from the date of issuance, unless sooner revoked or cancelled by the commissioner.

[(2) An operating certificate for refuse burning equipment shall be valid for a period of up to eighteen months from the date of issuance, unless sooner revoked or cancelled by the commissioner.

(3) Where an operating certificate described in paragraph one or paragraph two of this subdivision is renewed after its expiration, the fee for such certificate charged

in accordance with the provisions of this chapter shall be increased on a monthly pro-rated basis for the period of time between such expiration and renewal, unless it is shown to the satisfaction of the commissioner that such certificate was not required under the provisions of this title.

(e) An operating certificate is not required for equipment or apparatus the installation or operation of which would not require a permit pursuant to section 24-121.

(f)] *(e)* If equipment or apparatus for which [an operating] *a* certificate *of operation* has been issued is dismantled or rendered inoperable, the owner of such equipment or apparatus shall notify the department within twenty days on forms furnished by the department. If the commissioner finds to his or her satisfaction that such equipment or apparatus has been dismantled or rendered inoperable, renewal of the [operating] certificate *of operation* shall not be required for as long as the equipment or apparatus remains dismantled or inoperable.

§24-123 General requirements for applications for *work* permits, certificates *of operation*, and renewal of certificates *of operation*. (a) Application for [an installation or alteration] *a work* permit, for a certificate *of operation* or for the renewal of a certificate *of operation* shall be made by the owner of the equipment or apparatus on forms furnished by the department. If the applicant is a partnership or group other than a corporation, the application shall be [made] *signed* by one individual who is a member of the group. If the applicant is a corporation, the application shall be [made] *signed* by an officer of the corporation.

(b) [Applications for permits, and operating certificates required by subdivision (b) of section 24-122 of this code, shall be filed at the department of buildings except that such applications shall be filed with the department of ports and trade with respect to buildings under the jurisdiction of such department.

(c)] A separate application is required for each unit of equipment or apparatus, unless identical units of equipment or apparatus are to be installed, altered or operated in an identical manner in the same building.

[(d)] *(c)* Each application shall be signed by the applicant and [professionally certified as to] *by an architect, engineer or any other professional approved by the commissioner by rule. The architect, engineer or other professional shall certify* the accuracy of the technical information concerning the equipment or apparatus contained in the application, plans and other papers submitted. In the case of an application for the [operating] certificate *of operation* required by this code, the certifying [engineer or] architect*, engineer or other professional* shall also certify that he or she inspected the equipment and that the equipment satisfies the provisions of this code. [For the renewal of a certificate, the applicant's professional engineer or architect shall certify that the equipment satisfies the provisions of this code.] The signature of the applicant shall constitute an agreement that the applicant will assume responsibility for the installation, alteration or use of the equipment or apparatus concerned in accordance with the requirements of this code.

[(e)] *(d)* Application for the renewal of [an operating] *a* certificate *of operation* shall be filed no later than [ninety] *forty-five* days *and no earlier than one hundred twenty days* prior to the expiration of the certificate *of operation*.

[(f)] *(e)* Application for [an installation or alteration] *a work* permit or for [an operating] *a* certificate *of operation* is automatically cancelled if a certificate of workers' compensation and a certificate of disability insurance is not filed with the department within sixty days after service on the applicant of a notice of failure to file such certificate, exclusive of the day of service.

(f) Information exempt by law from disclosure as confidential commercial information that may be required, ascertained or discovered by the department shall not be disclosed by any department employee, except that the information may be disclosed by the commissioner if the department is subpoenaed for the information or if in the course of a court proceeding or department or administrative hearing, the information is relevant to the proceeding or hearing.

[§24-124 Information required for applications for permits, sulfur exemption certificates. (a) Each application for a permit or installation or alteration of experimental equipment or apparatus shall be in a manner prescribed by the commissioner.

(b) An application for the installation or alteration of control apparatus to obtain a sulfur exemption certificate shall describe in deatil the following:

(1) The kind and amount of fuel for which the sulfur exemption certificate is sought; and

(2) The location of the fuel burning equipment; and

(3) The manner of operation of the fuel burning equipment; and

(4) Any additional information, evidence or documentation which may be required by the commissioner.

(c) Information concerning secret processes which may be required, ascertained or discovered by the department shall not be disclosed by any department employee, except that the information may be disclosed by the commissioner if the department is subpoenaed for the information or if in the course of a departmental court proceeding or department or board hearing, the information is relevant to the proceeding or hearing.]

§24-125 Standards for granting *work* permits. (a) Except as provided in section 24-126 of this code, no *work* permit shall be granted unless the applicant [demonstrates and/or] certifies to the satisfaction of the commissioner that:

(1) The equipment is designed and will be installed or altered to operate in accordance with the provisions of this code *and with any applicable rules the commissioner may promulgate pursuant to this code*;

(2) The equipment [incorporates advances in the state of the art of air pollution control developed for the kind and amount of air contaminant emitted by the applicant's equipment] *has been certified by a registered design professional to meet the current applicable federal, state and city emission standards*;

(3) [The equipment is designed and will be installed or altered consistent with any regulations for such equipment issued by the commissioner;

(4)] Equipment [which] *that* will have a stack [or duct three feet or more in diameter]*, chimney, or breaching* will be provided with:

(i) Sampling ports of a size, number and location as the [department] *commissioner* may require, and

(ii) Safe access to each port, and

(iii) Such other sampling and testing facilities as the commissioner may require;

[(5)] *(4)* Refuse burning equipment operated by the department contains control apparatus which meets [the] *any* performance standards *that may be* prescribed by the commissioner;

(6)] *(5)* When required by the commissioner, fuel burning equipment [which] *that* will use residual fuel oil will be installed with an air contaminant detector together with either a combustion shutoff or, when acceptable to the commissioner, an air contaminant recorder, except that no combustion shutoff shall be required on fuel burning equipment used to generate steam for off-premises sale or electricity; *and*

[(7)] *(6)* All parts of the equipment can be readily cleaned and repaired[; and

(8) Operation of the equipment will not prevent the attainment or maintenance of applicable emission criteria].

(b) In order to reduce the emission of air contaminants and to insure optimum combustion in fuel burning equipment and refuse burning equipment, such equipment shall be shown to the satisfaction of the commissioner to:

(1) Be of a proper size to handle the planned load, be located in a proper place[,] *and* incorporate appropriate apparatus [and have proper operating, regulating and control devices]; and

(2) [Be operated at appropriate times and by appropriate persons; and

(3)] Burn fuel or [refuse] *other material* determined by the commissioner to be appropriate for the specific size and type of equipment.

(c) The commissioner may require that any equipment or apparatus [with respect to which] *that requires* a *work* permit [is required], or any class or category of such equipment or apparatus, be included on a list of accepted equipment or apparatus maintained by the department. No acceptance for listing of equipment or apparatus shall be granted unless the applicant [demonstrates and/or certified] *certifies* to the satisfaction of the commissioner that such equipment or apparatus complies with all applicable provisions of this code [(including the requirements of subdivisions a and b of this section) and of the rules concerning engineering criteria for fuel burning equipment] and such other applicable rules as the commissioner may promulgate pursuant to this code. [An application for acceptance shall be accompanied by the required fee.]

§24-126 Conditional approval of [permits] *experimental installations and alterations*. The commissioner may grant a *work* permit*, or an alternative form of approval,* for an experimental installation or alteration on conditional approval if it appears likely from all of the information submitted that the installation or alteration when completed may satisfy the standards of section 24-125 of this code. The *work* permit shall be [for a reasonable time,] *valid for a period* not to exceed three years. [This section shall not apply to a permit for the purpose of obtaining a sulfur exemption certificate.]

§24-127 [Cancellation] *Expiration* of [installation and alteration] *work* permits. (a) [The commissioner may cancel a permit for the installation of equipment or apparatus in new buildings] *In newly constructed buildings, a work permit shall*

expire if the installation is not completed within one year from the date of issuance of the *work* permit or if work on the installation under *the work* permit is suspended for more than ninety days.

(b) [When not a new building, the commissioner may cancel a permit for the installation or alteration of equipment or apparatus] *In existing buildings, a work permit shall expire* if the installation or alteration is not begun within ninety days from the date of issuance of the *work* permit or if the work of the installation or alteration is suspended for more than thirty days or if the installation or alteration is not completed within six months.

(c) [With the consent of the commissioner, and in his or her discretion, an applicant may secure an extension of the expiration date on written request to the commissioner stating the reasons therefor.] Extensions may be granted for a period of not more than six months *per extension, provided that an application for an extension shall be made at least thirty days prior to the expiration of the work permit*.

(d) An expired work permit shall be reinstated if it is filed within one year of the expiration date of the work permit. If an application for reinstatement is not filed within one year of the expiration date of the work permit, then a new application shall be filed with the department.

§24-128 Standards for granting or renewing [operating] certificates *of operation*. (a) No [operating] *initial* certificate *of operation* shall be granted for the use or operation of equipment or apparatus for which [an installation or alteration] *a work* permit is required unless the applicant [shows to the satisfaction of the commissioner that the equipment or apparatus satisfies the standards of section 24-125 of this code and is installed or altered in accordance with the requirements and conditions contained in the permit, or if installed or altered in a manner which deviates from the permit, that the deviation from the permit does not adversely affect the emission of air contaminant] *first requests an inspection by the department to certify that the equipment or apparatus is installed in accordance with the work permit and operates in accordance with this code. Such inspection shall include testing as set forth in subdivision (a) of section 24-129 of this code*.

(b) [No operating certificate shall be granted for the use or operation of existing equipment for which a certificate is required by subdivision (b) of section 24-122 of this code unless the applicant files an application and plans as required by section 24-124 of this code for installation and alteration permits, and shows to the satisfaction of the commissioner that:

(1) The equipment satisfied the standards required by section 24-125 of this code for the granting of a permit for similar new or altered equipment, with the exception of the requirements relating to stacks and ducts in paragraph four of subdivision (a) of section 24-125 of this code; and

(2) Refuse burning equipment includes the installation and use of:

(i) An auxiliary gas burner regulated by automatic firing clocks; and

(ii) An overfire air fan and nozzle system; and

(iii) Control apparatus such as a scrubber and/or additional control apparatus or such equivalent as may be determined by the commissioner.

(iv) Subparagraphs (i) and (ii) shall not apply to refuse burning equipment operated by the department of sanitation.

(3) Fuel burning equipment using residual fuel oil includes the installation and use of:

(i) A combustion controller; and

(ii) An automatic oil temperature maintenance device; and

(iii) An automatic water temperature device or its equivalent; and

(iv) Such additional control apparatus as may be determined by the commissioner.

(4) Fuel burning equipment using solid fuel includes the installation and use of:

(i) A combustion controller; and

(ii) An automatic water temperature maintenance device or its equivalent; and

(iii) Such additional control apparatus as may be determined by the commissioner.

(c)] No [operating] certificate *of operation* shall be *granted or* renewed for the use or operation of equipment or apparatus unless the applicant shows to the satisfaction of the commissioner that the equipment or apparatus covered by such certificate [continues to satisfy] *of operation satisfies* the standards established in the code or by rules or regulations *promulgated* thereunder in effect on the date of the issuance of the original [operating] certificate *of operation*.

[(d)] *(c)* An application for [an operating] *a* certificate *of operation* or any renewal or reinstatement thereof may be denied by the commissioner if any board penalty against the owner of equipment or apparatus which is the subject of the application has not been complied with or satisfied.

[(e)] *(d)* If an owner fails to make *an* application to renew [an operating] *a* certificate *of operation* within one hundred eighty days from the date of mailing of notice by the commissioner that such application is required, such owner shall be required to file a new application for a *work* permit pursuant to [section] *sections 24-123 and* 24-125 *of the code*.

§24-129 Testing before granting or renewing of [operating] certificates [and sulfur exemption certificates] *of operation*. (a) [Before an operating certificate, or a sulfur exemption certificate as provided by subdivision (a) of section 24-171 of this code is granted or renewed, the commissioner may require the applicant to conduct such tests as are necessary in the opinion of the commissioner to determine the kind or amount of air contaminant emitted from the equipment, or to determine whether the equipment or apparatus, its operation, or the fuel or material used is contributing to, or is in, violation of this code. The test shall be made at the expense of the applicant] *A certificate of operation shall not be granted or renewed unless the equipment passes such tests as the commissioner may require by rule. The commissioner may require the applicant to conduct such tests. A failing test result shall result in disapproval*.

(b) [Such tests shall be conducted, reviewed and certified as provided by subdivision (b) of section 24-107 of this code. The applicant shall notify the department of the time and place of a test as provided by subdivision (c) of section

24-107 of this code. Reasonable facilities shall be made available for the department to witness the test.

(c)] If in the opinion of the commissioner tests by the department are necessary, the facilities for such tests, exclusive of sampling and sensory devices, shall be furnished by and at the expense of the owner or lessee or his or her agent as provided by subdivision (d) of section 24-107 of this code.

§24-130 Action on applications for *work* permits and certificates *of operation*. (a) The commissioner shall act within a reasonable time not to exceed [sixty] *forty-five* days on an application for a *work* permit or certificate *of operation*, or for a renewal of a certificate *of operation*, and shall notify the applicant in writing of his or her approval or disapproval of the application.

(b) If an application is disapproved, the commissioner shall set forth his or her objections in the notice of disapproval [or notice of violation].

(c) Within [sixty] *forty-five* days after service on the applicant of the notice of disapproval [or notice of violation exclusive of the day of service], the applicant may request the commissioner to reconsider the application by answering in writing the commissioner's objection to the application. *The application shall be deemed cancelled if the applicant fails to answer or request an extension of time within forty-five days after the service of the notice of disapproval.*

(d) The commissioner shall consider the applicant's answer to his or her objections, and shall notify the applicant in writing within a reasonable time, not to exceed [sixty] *forty-five* days, of his or her approval or denial of the application. [Failure to answer or request an extension of time within sixty days after service of the notice of disapproval or a notice of violation shall be deemed a denial of the application.]

(e) The commissioner may grant a temporary [operating] certificate *of operation* for a period not to exceed sixty days upon receipt of an application for the granting or renewal of [an operating] *a* certificate *of operation* and may, at his or her discretion, renew a temporary [operating] certificate *of operation* for an additional period not to exceed sixty days.

§24-131 Conditions of *work* permits and certificates *of operation* to be observed. The holder of a *work* permit or certificate *of operation* shall comply with the conditions and terms contained [therein as well as all applicable provisions of this code] *in the work permit or in the certificate of operation*.

§24-132 Suspension or revocation of *work* permits and certificates *of operation*. (a) The commissioner shall suspend or revoke a *work* permit or certificate *of operation* when ordered to do so by the board pursuant to subchapter nine of this code.

(b) Suspension or revocation of a *work* permit or certificate *of operation* shall become final five days after service of notice[, exclusive of the day of service,] on the holder of the *work* permit or certificate *of operation*.

[§24-133 Denial of permits and certificates; departmental hearing, stay of action. (a) When the commissioner has made a final decision denying an application for a permit or certificate, the applicant for the permit or certificate may request a hearing by the commissioner to reconsider his or her action. The request for a hearing shall

be served within fifteen days following service of notice of denial, exclusive of the day of service, upon an employee of the department designated for this purpose.

(b) The request for a hearing shall be in a manner prescribed by the commissioner.

(c) The person making the request shall submit a memorandum containing his or her objections to the action of the commissioner within five days following service of the request for a hearing, exclusive of the day of service.

(d) The commissioner or the designated hearing officer conducting such hearings shall:

(i) follow the procedures found in section 24-184 of this code; and,

(ii) commence the hearing within thirty days after receiving the applicant's memorandum.

(e) At the conclusion of the hearing, the commissioner or hearing officer shall issue a decision in compliance with section 24-186 of this code.]

§24-134 Surrender of *work* permits and certificates *of operation*. A *work* permit or certificate [which] *of operation that* has been cancelled or revoked pursuant to this code shall be surrendered [forthwith] to the commissioner *within five business days of receipt of the notice of revocation*.

§24-135 Transfer of *work* permits and certificates *of operation*. (a) [Any purported or attempted transfer of a] *A work* permit [automatically revokes the permit] *shall not be transferred, except to the new property owner upon conveyance of the property. If the new owner employs a different registered design professional, that registered design professional shall recertify the application.*

(b) [Any purported or attempted transfer of a] *A* certificate [automatically revokes the certificate, except that] *of operation shall not be transferred, except to the new property owner* upon conveyance of the [premises in which the equipment is located a certificate may be transferred to a person other than the person named in the certificate] *property*.

§ 10. Subchapter 5 of chapter 1 of title 24 of the administrative code of the city of New York is REPEALED.

§ 11. Chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new heading for subchapter 5 to read as follows:

SUBCHAPTER 5

ASBESTOS

§ 12. Section 24-146.1 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is renumbered section 24-136 of subchapter 5, section 24-146.2 of subchapter 6 of such title is renumbered section 24-137 of subchapter 5, section 24-146.3 of subchapter 6 of such title is renumbered section 24-138 of subchapter 5, and section 24-150.1 of subchapter 6 of such title is renumbered section 24-139 of subchapter 5.

§ 13. Section 24-136 of subchapter 5 of chapter 1 of title 24 of the administrative code of the city of New York, such section 24-136 as renumbered by section 12 of this local law, as added by local law number 76 for the year 1985, and as redesignated pursuant to section 14 of chapter 907 of the laws of 1985, paragraphs (5) and (8) of subdivision (a) as amended and paragraph (10) of subdivision (a) as

added by local law number 101 for the year 1989, subdivision (c) as amended by local law number 38 for the year 2009, subdivision (d) as amended by local law number 46 for the year 1988, paragraph (6) of subdivision (d) as amended and paragraph (7) of subdivision (d) as added by local law number 101 for the year 1989, paragraph (1) of subdivision (e) as amended by local law number 21 for the year 1987, subparagraphs (a), (b) and (c) of paragraph (1) of subdivision (e) as amended by local law number 55 for the year 1991, paragraph (2) of subdivision (e) as amended by local law number 46 for the year 1988, paragraph (1) of subdivision (f) as amended by local law number 21 for the year 1989, subparagraph (a) of paragraph (1) of subdivision (f), paragraph (2) of subdivision (f), subdivision (h) as amended, subdivisions (i) and (j) as added, and subdivision (k) as relettered by local law number 46 for the year 1988, subdivisions (l) and (m) as added by local law number 101 for the year 1989, subdivision (n) as added by local law number 37 for the year 2009, second subdivision (n) as added by local law number 39 for the year 2009, and subdivision (o) as added by local law number 77 for the year 2009, is amended to read as follows:

§24-136 Asbestos work. (a) *The purpose of this subchapter is to protect public health and safety and the environment by minimizing the emission of asbestos fibers into the air of the city when buildings or structures that contain asbestos-containing material are renovated, altered, repaired, or demolished.*

(b) For purposes of this section, the following terms shall have the following meanings:

[(1)] "Asbestos" [shall mean] *means* any hydrated mineral silicate separable into commercially usable fibers, including but not limited to chrysotile (serpentine), amosite (cumingtonite-grunerite), crocidolite (riebeckite), tremolite, anthrophyllite and actinolite.

[(2) "Asbestos inspection report" shall mean a report on the condition of a building or structure in relation to the presence and condition of asbestos therein.

(3)] "Asbestos investigator" [shall mean] *means* an individual certified by the commissioner as having satisfactorily demonstrated his or her ability to identify the presence and evaluate the condition of asbestos in a building or structure.

[(4)] "Asbestos containing material" shall mean asbestos or any material containing more than one percent asbestos by weight.

[(5) "Asbestos removal plan" shall mean a plan which will be undertaken so as to prevent asbestos from becoming airborne in the course of an asbestos project as defined in this subdivision.

(6)] "Asbestos handling certificate" [shall mean] *means* a certificate issued to a person who has satisfactorily completed an approved asbestos safety and health program.

[(7) "Approved safety and health program" shall mean a program certified by the commissioner providing training in the handling and use of asbestos containing material, and safety and health risks inherent in such handling and use, together with methods for minimizing the exposure of workers and the public to asbestos fibers and, instruction in all applicable federal, state and local laws and regulations pertaining to asbestos related work.

(8)] "Asbestos project" [shall mean] *means* any form of work performed in [connection with the alteration, renovation, modification, or demolition of] a building or structure[, as defined in section 27-232 of this code,] or in connection with the replacement or repair of equipment, pipes, or electrical equipment not located in a building or structure, which will disturb more than [two hundred sixty] *twenty-five* linear feet or more than [one hundred sixty] *ten* square feet of [friable] asbestos containing material or such smaller amounts as the commissioner may establish by [regulation] *rule*.

"Asbestos project notification" means a form filed to notify the department that an asbestos project will be taking place.

[(9) "Friable asbestos material" shall mean any asbestos or any asbestos containing material that can be crumbled, pulverized or reduced to powder when dry, by hand pressure.

(10)] "AHERA" [shall mean] *means* the asbestos hazard emergency response act of nineteen hundred eighty-six, as amended (15 U.S.C. section [641] *2641*, et seq.).

[(b)] "*Work place safety plan" means documents prepared by a registered design professional and submitted to the department in order to obtain an asbestos abatement permit.*

(c) (1) It shall be unlawful for any individual to handle [friable] asbestos material in the course of performing work for compensation on an asbestos project unless such individual is a holder of a current, valid asbestos handling certificate.

(2) It shall be unlawful to employ or otherwise permit any individual to handle [friable] asbestos material on an asbestos project when such person is not a holder of a current, valid asbestos handling certificate.

[(c)] *(d)* The commissioner shall promulgate [regulations] *rules* establishing procedures for the safeguarding of the health and safety of the public [and all], *including procedures to be followed by* persons who work at or in the vicinity of an asbestos project. The commissioner, in consultation with the fire commissioner and the commissioner of buildings, shall promulgate rules [within one hundred twenty days of the enactment of this local law] which give further guidance to contractors on how to maintain egress at asbestos projects, as such projects are defined in the rules of the department, in accordance with all applicable laws, codes, rules and regulations.

[(d)] *(e)* (1) The commissioner shall promulgate [regulations] *rules* establishing criteria for certifying individuals as eligible to receive an asbestos handling certificate [and for certifying programs as approved safety and health programs]. The commissioner may restrict the asbestos handling certificate as to certain supervisory and nonsupervisory functions and responsibilities.

(2) The commissioner shall promulgate [regulations] *rules* establishing criteria for certifying individuals as asbestos investigators.

(3) Any certificate issued under this subdivision shall be valid for a period of two years unless sooner suspended or revoked and may be renewed for a period of two years upon submission of proof satisfactory to the commissioner that the individual continues to meet the criteria established pursuant to this subdivision.

(4) [The initial certification of safety and health programs established pursuant to this section shall expire six months after the date of such certification. Safety and health program certificates may be renewed upon presentation to the commissioner of evidence satisfactory to the commissioner that the program continues to satisfy the criteria established for such safety and health programs. Such renewal shall be valid for a period of one year unless suspended or revoked before such time. The application to renew a certificate shall be submitted with the appropriate renewal fee thirty days prior to expiration of such certificate.

(5)] The commissioner[, after providing notice and an opportunity to be heard, may suspend or revoke any certificate issued under this subdivision where it is found that the holder has failed to comply with this section or any rules or regulations promulgated thereunder] *may suspend or revoke any certificate issued under this subdivision where the holder has violated this section or any rules promulgated thereunder. Determinations made by the environmental control board as to notices of violation issued by the department shall be considered proof of violation for purposes of this section. The certificate holder shall be notified of the suspension or revocation by certified mail sent to the holder's address on file with the department, and shall be given an opportunity to be heard within fifteen calendar days. The hearing shall be conducted in accordance with the rules of the department. The holder's certificate shall be suspended from the date of the notice until the hearing is held and the commissioner makes a final determination*.

[(6)] *(5)* The commissioner shall charge a fee not to exceed [one] *two* hundred dollars to process the application to issue or renew an asbestos handling certificate and a fee not to exceed [two hundred fifty] *five hundred* dollars to process the application of an individual as an asbestos investigator.

[(7)] *(6)* The commissioner may suspend the processing of applications for certification of individuals as asbestos handlers[,] *or* investigators[, planners, designers, and other titles for which training requirements are specified by AHERA, and the certification of safety and health programs] when the commissioner determines that regulations promulgated pursuant to article thirty of the labor law for the certification of such individuals [and for the certification of safety and health programs] are essentially equivalent to [regulations] *rules* promulgated by the commissioner, and that such certifications are in fact being issued.

(7) No certificate issued under this subdivision shall be renewed if the holder has failed to pay in full any civil penalty imposed by the board for violations of this section or any rules promulgated thereunder.

[(e) (1) a.] *(f) (1)* The commissioner shall prescribe forms for and the content of asbestos [inspection reports to be submitted in accordance with the provisions of subdivisions a, b or c of section 27-198.1 of article nineteen of subchapter one of chapter one of title twenty-seven of the code. Such reports] *project notifications to be submitted to the department. Such notifications* shall require the furnishing of information deemed relevant by the commissioner for evaluating[, in the case of an asbestos project,] the scope, complexity and duration of [such project, or if not an asbestos project, information deemed relevant by the commissioner for evaluating the samples taken and the validity of sampling techniques utilized in preparing such inspection report,] *the project* and the compliance with the provisions of this section,

any [regulations] *rules* promulgated thereunder, and any applicable federal[and or], state*, or local* laws*, rules* or regulations.

[b. An asbestos inspection report regarding an asbestos project, where the work to be performed will cause the generation of waste which is asbestos containing material, shall include: (i) the amount of such waste which will be generated; (ii) the name of the person who will remove the waste and the number of the industrial waste transporter permit issued to such person pursuant to article twenty-seven of the environmental conservation law; and (iii) the site at which such waste will be disposed of.

c. If at the time the asbestos inspection report for an asbestos project is required to be filed, any of the information required under subparagraph b of this paragraph is not known, an amended report shall be filed thereafter with the department as soon as such information becomes known. Provided no person shall authorize the transport of waste which is asbestos containing material unless all information required in paragraph b has been filed with the department not less than five business days prior to the time such waste is transported. Provided further, however, the commissioner may for good cause shown and on such terms and conditions as he or she deems reasonable and necessary permit the filing of such report less than five days prior to the time such waste is transported.

d. Copies of all asbestos inspection reports received by or filed with the department and any amendments thereto indicating that waste which is asbestos containing material will be generated shall be forwarded to the department of sanitation.

(2) The commissioner may by regulation also require for any work which is not subject to the provisions of subdivision a of section 27-198.1 of article nineteen of subchapter one of chapter one of title twenty-seven of the code and for which a permit is required under article nine of subchapter one of chapter one of such title that an asbestos investigator certify that the work to be performed will not constitute an asbestos project or that an asbestos inspection report be completed and submitted to the department of buildings in conjunction with an application for such permit. The commissioner may exclude from any regulation promulgated pursuant to this paragraph certain types of work within a permit category.

(f) (1) a. The commissioner shall promulgate regulations establishing the requirements of an asbestos removal plan to be submitted in accordance with the provisions of subdivision c of section 27-198.1 of article nineteen of subchapter one of chapter one of title twenty-seven of the code and shall specify the type or types of demolition or alteration work for which such submission shall be required. Plans submitted shall be approved by the commissioner only upon a satisfactory showing that such plan will effect compliance with all applicable provisions of this section, regulations promulgated thereunder, all applicable federal or state laws or regulations and, in addition, that to the extent feasible, the removal of asbestos will be completed prior to the commencement of any demolition work. No plan shall be considered for approval unless accompanied by the payment of a fee established by the commissioner not to exceed eighteen hundred dollars.

b. Such plan, where] *(2) If* the work to be performed will cause the generation of waste which is asbestos containing material, *the asbestos project notification* shall

include: (i) [the amount of such waste which will be generated; (ii)] the name of the person who will remove the waste and the number of *the* industrial waste transporter permit issued to such person pursuant to article twenty-seven of the environmental conservation law; and [(iii)] *(ii)* the site at which such waste will be disposed [of].

[c. If at the time asbestos removal plan is required to be filed, any of the information required under subparagraph b of this paragraph is not known, an amended plan shall be filed thereafter with the department as soon as such information becomes known. Provided no person shall authorize the transport of waste which is asbestos containing material unless all information required in paragraph b has been filed with the department not less than five business days prior to the time such waste is transported. Provided further, however, the commissioner may for good cause shown and on such terms and conditions as he or she deems reasonable and necessary permit the filing of such amended plan less than five days prior to the time such waste is transported.

d. Copies of all asbestos removal plans filed with the department and any amendments thereto indicating that waste which is asbestos containing material will be generated shall be forwarded to the department of sanitation.

(2) The commissioner shall act within a reasonable time not to exceed sixty days on an application for approval of an asbestos removal plan, and shall notify the applicant in writing of his or her approval or disapproval of the application. If an application is disapproved, the commissioner shall set forth his or her objections in the notice of disapproval. Within sixty days after service on the applicant of the notice of disapproval, the applicant may request the commissioner to reconsider the application by responding in writing to the stated objections. The commissioner shall consider the applicant's responses to his or her objections, and shall notify the applicant in writing within a reasonable time, not to exceed sixty days, of his or her approval or denial of the application. Failure to respond to the stated objections or request an extension of time within sixty days after service of the notice of disapproval shall be deemed a denial of the application.]

(g) The commissioner may promulgate any [regulations] *rules* he or she deems necessary to protect [the] *public* health and safety [of workers] and the [public] *environment* in connection with work not constituting an asbestos project in which asbestos is or is likely to be disturbed.

(h) [A notice or] *An* order to stop work may be issued by the commissioner, or his or her authorized representative, at any time when it is found that work is being performed in violation of the provisions of this section, or any rules or regulations promulgated thereunder and which poses a threat to human safety. *Upon issuance of a stop work order by the commissioner, all work shall immediately stop unless otherwise specified.* Such [notice or] order may be given orally or in writing to the owner, lessee or occupant of the property involved, or to the agent of any of them, or to the person or persons performing the work and may require all persons in or about the building or premises to vacate the same forthwith, and also require such work to be done as, in the opinion of the commissioner, may be necessary to remove the danger therefrom. [Such notice or order shall be valid for a period of time not to exceed seventy-two hours and may be extended only upon application to the board in accordance with the provisions of section 24-178 of this code.] *A verbal stop work*

order shall be followed promptly by a written order and shall include the reason for the issuance of the stop work order. A stop work order issued pursuant to this subdivision may be appealed in accordance with the rules of the department, and the commissioner shall provide notice and an opportunity to be heard within fourteen days of the filing of such appeal. A stop work order shall be lifted (i) if, upon appeal, the commissioner determines that the issuance of such order was not proper, or (ii) when it has been determined that the condition that gave rise to its issuance has been corrected. Notwithstanding any inconsistent provision of this subdivision, if, upon inspection, the condition is determined by the inspector to be immediately curable, work shall be stopped only until the condition is corrected.

(i) The commissioner may grant individual variances for asbestos projects at specific sites, from particular requirements related to asbestos prescribed by this code and [regulations] *rules* or orders of the commissioner promulgated thereunder, whenever it is found, upon presentation of adequate proof, that compliance with such requirements would impose unreasonable hardship. In granting a variance the commissioner may impose such conditions as the policies of this code may require [and shall publish in the City Record no later than seven days after the granting of such variance a statement of the reasons leading to his or her decision].

(j) [The commissioner may establish a fee to process the applications listed in this subdivision as follows:

(1) For any asbestos project not requiring a permit or plan approval issued by the department of buildings and for which an asbestos inspection report or asbestos removal plan is required by this section and by regulations promulgated pursuant thereto to be filed with the commissioner, the commissioner shall be entitled to charge a fee not to exceed twelve hundred dollars for the asbestos inspection report or eighteen hundred dollars for the asbestos removal plan.

(2) To process an application for a variance submitted in accordance with subdivision (j) of this section, the department shall be entitled to charge a fee as established by the commissioner not to exceed eighteen hundred dollars.

(3) The commissioner may establish a fee not to exceed the following amounts for processing applications for the certification or renewal of certification of safety and health programs established pursuant to this section:

PROGRAM	FEE PER PROGRAM
Asbestos Handler	$1500.00
Asbestos Supervisor	$300.00
Asbestos Investigator	$750.00
Biennial Review Course	$500.00
Refresher Course	$300.00

(k) The commissioner may promulgate any additional regulations he or she deems necessary to effectuate the purposes of this section.

(l) The commissioner shall promulgate regulations requiring asbestos investigators to submit on a timely basis to the commissioner the results of any

asbestos survey or investigation for asbestos conducted in accordance with this section and with regulations promulgated pursuant thereto if, during or as a result of such asbestos survey or investigation, the asbestos investigator discovers asbestos containing material. The commissioner may require the submission of the asbestos investigator's findings whether or not an asbestos project is planned or scheduled.

(m)] (1) In addition to submission of the asbestos [inspection report or asbestos removal plan] *project notification*, the commissioner may by [regulation] *rule* require additional notification to the department prior to the start of the asbestos project. No person shall cause or permit any abatement of asbestos containing material without compliance with any such additional notification requirements.

(2) [Except as specified in subparagraph c of paragraph one of subdivision (e) and subparagraph c of paragraph one of subdivision (f) of this section, the] *The* commissioner may prescribe by [regulation] *rule* the circumstances under which an asbestos [inspection report or asbestos removal plan] *project notification* may be amended, and the circumstances under which a new [asbestos inspection report or asbestos removal plan] *project notification* shall be submitted to the department. The commissioner may consider the extent of the proposed amendment, including but not limited to change in floor size, quantity of asbestos containing material involved, project phasing, project duration, and replacement of abatement contractor.

[(n)] *(k)* The commissioner shall adopt rules specifying the standards for the construction of temporary structures for asbestos abatement activities. In addition to any other requirements, such rules shall provide that materials used in the construction of such structures be non-combustible or flame resistant in compliance with reference standard NFPA 255-06 or NFPA 701-99, as such standards may be modified by local law or by the [Department] *department* of [Buildings] *buildings* pursuant to applicable rules.

[(n)] *(l)* Sharing the results of inspections. The commissioner, in coordination with the commissioner of [the department of] buildings and the fire commissioner, shall establish a procedure to share information regarding violations issued pursuant to this section, in accordance with the requirements of section 28-103.7.1 of the [administrative] code [of the city of New York].

[(o)] *(m)* (1) No asbestos abatement activities shall be performed within a building concurrently with demolition work for the full demolition of such building or concurrently with the removal of one or more stories of such building, except as provided in this subdivision and the rules of the department.

(2) Prior to the issuance of a full demolition permit by the department of buildings, the owner of the building to be demolished shall submit to the department of buildings (i) certification, in a form to be provided by the rules of the department of environmental protection, that the building is free of asbestos containing material or, (ii) documentation that the commissioner of environmental protection has issued a variance from this requirement pursuant to subdivision (i) of this section and the rules of the department, subject to the additional conditions set forth in paragraph four of this subdivision.

(3) Prior to the issuance of an alteration permit by the department of buildings to remove one or more stories of a building, the owner of the building shall submit certification to the department of buildings in a form to be provided by the rules of

the department of environmental protection (i) that the stories to be removed are free of asbestos containing material and that no abatement activities will be performed anywhere in the building concurrently with the removal work authorized by such permit or (ii) that the commissioner of environmental protection has issued a variance from these requirements pursuant to subdivision (i) of this section and the rules of the department, subject to the additional conditions set forth in paragraph four of this subdivision.

(4) Prior to granting any variance pursuant to subdivision (i) of this section relating to the full demolition of a building or the removal of one or more stories of a building that would permit the performance of abatement activities concurrent with such demolition or removal work within the same building, the commissioner of environmental protection shall notify and consult with the commissioner of buildings and the fire commissioner regarding the appropriate safeguards for such work. Notwithstanding any inconsistent provision of section [24-146.3] *24-138* of [the administrative] *this* code, where a variance is issued to perform abatement activities and demolition or removal work concurrently within the same building, the asbestos abatement activities may not be performed without an asbestos permit issued pursuant to section [24-146.3] *24-138 of this code*, regardless of whether such a permit would otherwise be required to perform such activity.

(5) The commissioner shall post on-line within seven days notice of any variance granted under this subdivision with a statement of the reasons leading to his or her decision.

(6) This subdivision shall not apply to full demolition or the removal of one or more stories performed as emergency work pursuant to article 215 of chapter 2 of title 28 of the administrative code where the emergency warrants immediate commencement of the work or full demolition with asbestos in place authorized in accordance with 12 NYCRR 56-11.5.

(n) The owner of a building or structure where asbestos abatement activity occurs or where asbestos-containing material is disturbed shall be responsible for the performance of the work by the agent, contractor, employee, or other representative of such owner.

§ 14. Subdivisions (a), (d) and (g) of section 24-138 of subchapter 5 of chapter 1 of title 24 of the administrative code of the city of New York, such section 24-138 as renumbered by section 12 of this local law, subdivisions (a), (d) and (g) of such section as added by local law number 37 for the year 2009, are amended to read as follows:

(a) The commissioner shall establish a permit requirement for asbestos projects[, as defined in the rules of the department,] affecting the safety of a building. On and after a date to be provided in the rules establishing such a permit requirement, it shall be unlawful to commence or engage in such a project unless the commissioner has issued an abatement permit for such project.

(d) The commissioner may, on written notice to the permit holder, revoke any abatement permit for failure to comply with the provisions of this section or section [24-146.1] *24-136 of this code* or the rules adopted pursuant thereto or whenever there has been any false statement or any misrepresentation as to a material fact in the application or other documents submitted to the department upon the basis of

which such permit was issued; or whenever an abatement permit has been issued in error and conditions are such that the permit should not have been issued. Such notice shall inform the permit holder of the reasons for the proposed revocation and that the applicant has the right to present to the commissioner or his or her representative within 10 business days of delivery of the notice by hand or 15 calendar days of mailing of the notice, information as to why the permit should not be revoked. The commissioner may immediately suspend any permit without prior notice to the permit holder when the commissioner has determined that an imminent peril to life or property exists. The commissioner shall forthwith notify the permit holder that the permit has been suspended and the reasons therefore, that it is proposed to be revoked, and that the permit holder has the right to present to the commissioner or his or her representative within 10 business days of delivery of the notice by hand or 15 calendar days of mailing of the notice information as to why the permit should not be revoked.

(g) The permittee shall comply with section [24-146.1] *24-136* of this code and the rules of the department adopted pursuant to such section and with article 30 of the labor law and rules adopted pursuant to such article. The commissioner may issue a notice or order to stop work in accordance with the procedure set forth in subdivision (h) of section [24-146.1] *24-136 of this code* at any time when work is being performed in violation of this section or section [24-146.1] *24-136 of this code* or rules adopted pursuant to such sections and such work poses a threat to human safety.

§ 15. Subchapter 5 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-140 to read as follows:

§24-140 Spraying of asbestos prohibited. No person shall cause or permit the spraying of any substance containing asbestos in or upon a building or other structure during its construction, alteration or repair.

§ 16. Section 24-141 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-141 Emission of *odorous* air [contaminant (including odorous air contaminant) or water vapor; detriment to person, property or plant and animal life] *contaminants*. No person shall cause or permit the emission of *an odorous* air contaminant *or steam or water vapor*, [including odorous air contaminant, or water vapor] if the air contaminant or *steam or* water vapor causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or causes or may cause damage to property or business, or if it reacts or is likely to react with any other air contaminant or natural air, or is induced to react by solar energy to produce a solid, liquid or gas or any combination thereof which causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or which causes or may cause damage to property or business.

[(a)The prohibition of this section includes, but is not limited to, emission of the following air contaminant:

(1) Air contaminant that contain cadmium, beryllium, mercury or any compounds thereof;

(2) Air contaminant containing asbestos, except where such an air contaminant is emitted from the brake lining of a motor vehicle during normal use.

(b) The prohibition of this section includes, but is not limited to, emissions of odorous air contaminant from the following sources:

(1) Aircraft engines,

(2) Ammonia, bleaching powder or chlorine manufacture,

(3) Asphalt manufacture or refining,

(4) Blood processing,

(5) Bag cleaning,

(6) Coal tar products manufacture,

(7) Compost heaps,

(8) Crematory,

(9) Creosote treatment or manufacture,

(10) Diesel engines,

(11) Disinfectants manufacture,

(12) Distillation of bones, coal or wood,

(13) Dyestuff manufacture,

(14) Fat rendering,

(15) Fertilizer manufacture and bone grinding,

(16) Fish processing,

(17) Glue, size or gelatin manufacture,

(18) Incineration or reduction of garbage, dead animals, offal or refuse,

(19) Oiled rubber or leather goods manufacture,

(20) Paint, oil, shellac, turpentine or varnish manufacture,

(21) Paper and pulp manufacture,

(22) Petroleum refining,

(23) Plastic or resin manufacture,

(24) Processing of food stuffs,

(25) Rubber manufacture,

(26) Shoe-blackening manufacture,

(27) Soap and detergent manufacture,

(28) Slaughter-houses,

(29) Sulfuric, nitric or hydrochloric acid manufacture,

(30) Tanning, curing or storage of rawhides or skins,

(31) Tar distillation or manufacture,

(32) Tar roofing or waterproofing manufacture.

(c) The prohibition of this section, however, shall not include emissions of the air contaminants in paragraph (a) when restricted to the following quantities:

(1) cadmium-0.15 micrograms per cubic meter.

(2) beryllium-10 nanograms per cubic meter.

(3) mercury-0.1 microgram per cubic meter.

(4) asbestos-27 nanograms per cubic meter.]

§ 17. Section 24-142 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-142 Emission of air [contaminant] *contaminants*; standard smoke chart. (a) No person shall cause or permit the emission of *an* air contaminant of: (1) A density which appears as dark or darker than number two on the standard smoke chart or of an opacity which obscures vision to a degree equal to or greater than smoke of number two density on the standard smoke chart; or

(2) A density which appears as dark or darker than number one on the standard smoke chart, but less than number two on said chart, or of such opacity as to obscure vision to a degree equal to or greater than smoke of number one density on the standard smoke chart, but less than number two on said chart, if such an emission continues for longer than two minutes in the aggregate in any sixty minute period.

(b) *(1) The density or opacity of an air contaminant shall be measured in accordance with the procedures set forth in "Method 9 - Visual determination of the opacity of emissions from stationary sources," Appendix A-4 to part sixty of title forty of the code of federal regulations.*

(2) The density or opacity of an air contaminant shall be measured at the point of its emission[, except:

(1)] *provided that:*

(i) When the point of emission cannot be readily observed, it may be measured at an observable point on the plume nearest the point of emission; or

[(2)] *(ii)* In the case of *an* air contaminant emitted from a source outside of *the city of* New York, it shall be measured after the plume crosses the jurisdictional boundary of *the city of* New York [city].

§ 18. Section 24-143 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-143 Emission of air contaminant from internal [or external] combustion engine; visibility standard. No person shall cause or permit the emission of a visible air contaminant from the internal [or external] combustion engine of:

(a) A motor vehicle while the vehicle is stationary for longer than ten consecutive seconds; or

(b) A motor vehicle after the vehicle has moved *continuously for* more than ninety yards [from a place where the vehicle was stationary].

(c) The operator or registered owner of a vehicle in violation of this section shall be responsible for such violation.

§ 19. Section 24-144 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is REPEALED.

§ 20. Section 24-145 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-145 Emission of [particulate matter from refuse burning equipment and fuel burning equipment; weight-rate standard. (a) No person shall cause or permit the emission of particulate matter from refuse burning equipment and fuel burning equipment if the emission from such equipment is in violation of the provisions of

section 24-141 or 24-142 of this code or if the particulate matter emitted as measured in the flue exceeds the following limits:

(1) In refuse burning equipment, the permissible particulate rate shall be as provided in figure four of section 24-153 of this code. If two or more refuse burning units are connected to a single flue, the total capacity rating of all refuse burning units connected to the flue shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted. If a single refuse burning unit is manifold to two or more flues the capacity rating of the single refuse burning unit shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted;

(2) In fuel burning equipment in which the preponderance of the particulate matter emitted is caused by the burning of fuel, 0.40 pounds for each million Btu per hour input if the equipment has a capacity rating of ten million Btu per hour or less. If the capacity rating of the fuel burning equipment is more than ten million Btu per hour, the amount of permissible emissions of particulate matter shall be as provided in figure three of section 24-153 of this code, as measured on a dry basis.

(b) If two or more fuel burning units are connected to a single flue, the total capacity rating of all fuel burning units connected to the flue shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted. If a single fuel burning unit is manifold to two or more flues the capacity rating of the single fuel burning unit shall be the capacity rating for the purpose of computing the amount of particulate matter which may be emitted.] *particulates.(a) Refuse burning equipment. (1) Refuse burning equipment used at a crematorium that is covered by subpart 219-4 of part two-hundred nineteen of title six of the New York codes, rules and regulations, must meet the emission limits for particulates set forth in section 219-4.3 of such title.*

(2) Refuse burning equipment used to burn infectious waste that is covered by subdivision a of section 219-3.3 of title six of the New York codes, rules and regulations must meet the emission limits for particulates set forth in such subdivision.

(3) Refuse burning equipment used to burn waste material for the purpose of energy generation or that is not otherwise covered under paragraph one or two of this subdivision, and that is covered by subdivision b of section 219-3.3 of title six of the New York codes, rules and regulations must meet the emission limits for particulates set forth in such section.

(b) Equipment used in a process. (1) Equipment used in a process that is covered by section 212.3 of title six of the New York codes, rules and regulations must meet the emission limits for particulates set forth in such section.

(2) Equipment used in a process that is covered by section 212.4 of title six of the New York codes, rules and regulations must meet the emission limits for particulates set forth in such section.

(c) Fuel burning equipment that meets the definition of a new oil-fired boiler, as such term is used in subpart JJJJJJ of part sixty-three of title forty of the code of federal regulations, with a heat input capacity of ten million Btu per hour or greater and that does not meet the definition of a seasonal boiler or limited-use boiler, as

such terms are used in such subpart, must meet emission limits for particulate matter applicable to such new oil-fired boilers set forth in table one to such subpart.

§ 21. Section 24-146 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-146 Preventing [particulate matter] *dust* from becoming air-borne; [spraying of asbestos prohibited;] spraying of insulating material and demolition regulated. (a) *The purpose of this section is to protect public health and safety and the environment by minimizing the emission of dust into the air of the city.*

(b) No person shall cause or permit [particulate matter to be handled,] *any material that may generate dust to be* transported or stored without taking such precautions as may be ordered by the commissioner *or as established by the rules of the department* to prevent [particulate matter] *dust* from becoming air-borne.

[(b) Six months after August twentieth, nineteen hundred seventy-one no person shall cause or permit the spraying of any substance containing asbestos in or upon a building or other structure during its construction, alteration or repair, except if permitted by a variance granted pursuant to subdivision (e) of section 24-110 of this chapter.]

(c) No person shall cause or permit a building or its appurtenances or a road to be constructed, altered or repaired without taking such precautions as may be ordered by the commissioner *or as established by the rules of the department* to prevent [particulate matter] *dust* from becoming air-borne.

(d) No person shall cause or permit [untreated open areas located within the boundaries of a zoning lot] *any use,* as defined by section 12-10 of the zoning resolution of the city of New York, to be *implemented or* maintained without taking reasonable precautions *as established by the rules of the department, including, but not limited to, planting or covering,* to prevent [particulate matter] *dust* from becoming air-borne.

(e) No person shall cause or permit the spraying of any insulating material, not otherwise prohibited by this [section] *code*, in or upon any building or other structure during its construction, alteration or repair, unless he or she complies with the [following precautions: (1) Before the start of spraying operations, all floor areas shall be shoveled clean. Before the application of insulating material commences, the floor of the areas shall be cleared of all objects, material and equipment other than that employed in the application of the insulating material, or all objects, material, and equipment shall be covered with plastic or other approved tarpaulins in a manner that precludes the subsequent dispersal of particulate matter.

(2) The entire floor, or the part of the floor to be insulated, shall be enclosed with plastic or other approved tarpaulins in a manner which shall preclude the escape of particulate matter from the enclosure. All interior open areas, such as elevator shafts and stairwells shall be enclosed in a manner which shall prevent the escape of particulate matter from the working area. Stack effect of the shafts and stairwells shall be considered in providing proper enclosures. An enclosure will be considered satisfactory only if visible insulating material cannot escape from the enclosure.

(3) Wet insulating material which has fallen to the floor shall be swept up to prevent dispersal of dried material. Under no condition shall this material be removed later than at the end of the working day. Swept-up material shall be placed in a heavy

plastic bag strong enough to resist tearing or breaking under normal handling conditions and clearly marked as containing insulating material waste. The contents of the aforementioned plastic bags shall not be transferred to another container. The plastic bags shall be placed upon a vehicle for disposal at a site approved by the commissioner.

(4) All floors shall be vacuumed shortly after drying. The contents of the vacuum bag shall be carefully placed in a container of the type described in paragraph three of this subdivision and shall thereafter be placed on a vehicle for removal and disposal at a site approved by the commissioner.

(5) The materials used to form the enclosure shall be thoroughly vacuumed upon completion of the application of the insulation in the area. The entire floor area and ledges and surfaces including tarpaulins upon which waste insulation material may have fallen, shall then be vacuumed or revacuumed before removal of the enclosures.

(6) Enclosures shall not be dismantled until the area has been thoroughly vacuumed after completion of spraying and clean-up.

(7) All areas used for opening bags containing insulating material and/or changing of hoppers shall be enclosed in such a manner that insulating material shall not be permitted to escape from the immediate area in which such activity takes place.

(8) Signs shall be posted outside enclosures warning persons of the hazards of entering the enclosure without appropriate apparel.

(9) All persons involved in the spraying of insulating material at the site must be furnished with suitable coveralls which must be left at the site. No person shall be permitted in an area in which spraying or handling of insulating material has taken place until the final vacuuming referred to in paragraph five of this subdivision has been accomplished, unless such person is furnished with or wears coveralls of the type described herein. Facilities shall be provided and procedures instituted and supervised that preclude the removal and dispersal of insulating material from the construction site on the clothing or other appurtenances of persons leaving the area.

(10) Any plenum or other structures coated with insulating material which are intended for use in circulation of air in the building must be thoroughly cleaned of all debris, dust and waste insulation. All applied insulation material within a plenum or duct must be coated with a sealant approved by the commissioner which precludes exposure of the material to the circulating air whenever the commissioner after ordering tests to be conducted by the manufacturer in accordance with section 24-107, determines that the insulation material needs such a sealant.

(11) A person shall be assigned the full time responsibility of supervising the spraying and related operations to assure that no insulating material is released from the construction site.

(12) In case of emission of insulation material from the construction site, immediate steps shall be taken to cause the cessation of such emissions by either effective control measures or work stoppage at the source of the emissions. There shall then be immediate and complete clean-up of all material that has escaped the construction site by measures that will insure that no further dispersal of any insulating material into the atmosphere can occur] *rules of the department regarding precautions for the spraying of insulating material*.

(f) No person shall cause or permit a building or other structure to be demolished, [except pursuant to chapter one of title seventeen or article eight of subchapter three of chapter one of title twenty-six of the code,] unless he or she complies with the following precautions:

(1) Demolition by toppling of walls shall not occur except when approved by the commissioner *pursuant to section 24-109 of this code, or when conducted by or on behalf of a city agency pursuant to chapter one of title seventeen of the code or pursuant to an order issued by the department of buildings under article two hundred fifteen of chapter two of title twenty-eight of the code*.

(2) Before the demolition of any section of wall, floor, roof, or other structure, [adequate] *necessary* wetting procedures to lay the dust *or other precautions to prevent dust from becoming air-borne, as set forth in this section and the rules of the department,* shall be employed. All debris shall be thoroughly wetted before loading and while dumping into trucks, other vehicles or containers. In all cases and at all stages of demolition, wetting procedures shall be adequate to lay the dust. Trucks shall be adequately covered or enclosed to prevent dust dispersion while in transit to point of disposal.

(3) No structural members shall be dropped or thrown from any floor but shall be carefully lowered to ground level [by hoists].

(4) [Effective January first, nineteen hundred seventy-two, debris] *Debris* shall not be dropped or thrown *outside the exterior walls of the building* from any floor to any floor below. In buildings twelve stories or greater in height *any* debris [shall be] transported *outside the exterior walls of the building shall be transported* from the upper floors via enclosed, dust-tight chutes or via buckets *or other containers*. Where chutes *or shaftways* are used *either inside or outside the building*, a water soaking spray shall be employed to saturate the debris before it reaches the point of discharge from the chute *or shaftway*. Where buckets *or other containers* are used, the debris shall be adequately wetted to preclude dust dispersion when buckets *or other containers* are dumped.

(5) [Effective January first, nineteen hundred seventy-two, in] *(i) In* the event particulate matter becomes airborne for a continuous period of fifteen minutes, despite the application of the [above] procedures *set forth in this section and the rules of the department*, or because freezing temperatures preclude the use of water for laying the demolition dust, the work of demolition shall cease at once until other adequate measures can be taken[. Alternate] *and* procedures shall be evaluated by the commissioner before initiation thereof*, provided, however, that if the demolition work is being conducted by or on behalf of a city agency pursuant to chapter one of title seventeen of the code or pursuant to an order issued by the department of buildings under article two hundred fifteen of chapter two of title twenty-eight of the code and freezing temperatures preclude the use of water, then the demolition work may continue as long as necessary to complete the demolition process.*

(ii) An abatement order may be issued by the commissioner, or his or her authorized representative, at any time when it is found that work is being performed in violation of the provisions of this section, or any rules promulgated thereunder, and such work poses a threat to human health and safety. Upon issuance of an abatement order, the activity giving rise to the violation shall immediately stop

unless otherwise specified. Such order may be given orally or in writing to the owner, lessee or occupant of the property involved, or to the agent of any of them, or to the person or persons performing the work. Except as provided in subparagraph (iii), a verbal order shall be followed promptly by a written order and shall include the reason for the issuance of an abatement order. The order may require all such work to be done as may be necessary, in the opinion of the commissioner, to remove the danger therefrom.

(iii) An abatement order issued pursuant to subparagraph (ii) of this paragraph may be appealed in accordance with the rules of the department, and the commissioner shall provide notice and an opportunity to be heard within fourteen days of the filing of such appeal. An abatement order shall be lifted if, upon appeal, the commissioner determines that the issuance of such order was not proper, or upon the submission of proof satisfactory to the commissioner that the requirements of such order have been satisfied. In the case of a verbal abatement order, if the commissioner determines that the condition that gave rise to the order has been immediately corrected, such order shall be lifted at once and shall not be followed by a written order.

§ 22. Section 24-147 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-147 Emission of nitrogen oxides. [No person shall cause or permit emission of an air contaminant:

(a) from a boiler with a capacity of five hundred million Btu per hour or more and completed after August twentieth, nineteen hundred seventy-one, if the air contaminant emitted has nitrogen oxides content of more than one hundred parts per million by volume of undiluted emissions at ten percent excess air.

(b) from a boiler with a capacity of five hundred million Btu per hour or more and completed before August twentieth, nineteen hundred seventy-one, if the air contaminant emitted has nitrogen oxides content of more than one hundred fifty parts per million by volume of undiluted emissions at ten percent excess air]

(a) No person shall cause or permit the use or operation of fuel burning equipment that is covered by subpart 227-2 of part two hundred twenty-seven of title six of the New York codes, rules and regulations in a manner inconsistent with the requirements regarding emission limits for nitrogen oxides set forth in such subpart.

(b) The commissioner may establish rules regulating nitrogen oxides emissions from boilers not regulated under subpart 227-2 of part two hundred twenty-seven of title six of the New York codes, rules and regulations.

§ 23. Section 24-148 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-148 Architectural coatings; solvents. [(a) After July first, nineteen hundred seventy-two, no person shall sell, offer for sale, apply, evaporate, dry, dilute or thin any architectural coating containing a photochemically reactive solvent.

(b) For the purposes of this section, a photochemically reactive solvent is any solvent with an aggregate of more than twenty percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

1. A combination of hydrocarbons, alcohols, aldehydes, esters, ethers or ketones having an olefinic or cyclo-olefinic type of unsaturation: five percent;

2. A combination of aromatic compounds with eight or more carbon atoms to the molecule except ethylbenzene: eight percent;

3. A combination of ethylbenzene, ketones having branched hydrocarbon structures, or toluene: twenty percent] *No person shall use an architectural coating that is covered by part two hundred five of title six of the New York codes, rules and regulations unless such architectural coating is in compliance with the volatile organic compound limits set forth in section 205.3 of such part.*

§ 24. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.1 to read as follows:

§24-149.1 Outdoor wood boilers. (a) No person shall burn any fuel in an outdoor wood boiler except clean wood, provided that newspaper or other non-glossy, non-colored paper may be used as starter fuel.

(b) No person shall operate an outdoor wood boiler so as to cause an emission that (1) activates a smoke detector on an adjoining property; (2) impairs visibility on a public street or highway; or (3) causes a visible plume that comes into contact with a building on an adjacent property.

(c) No person shall operate an outdoor wood boiler with a thermal output rating of two hundred fifty thousand Btu/h or less, unless such outdoor wood boiler:

(1) Is in compliance with all applicable certification standards set forth in section 247.8 of title six of the New York codes, rules and regulations;

(2) Is located at least one hundred feet from the nearest property boundary line; and

(3) Is equipped with a permanent stack extending at least eighteen feet above ground level.

(d) No person shall operate an outdoor wood boiler with a thermal output rating in excess of two hundred fifty thousand Btu/h.

§ 25. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.2 to read as follows:

§24-149.2 Fireplaces. (a) Definitions. As used in this section:

"Existing fireplace" means a fireplace that has been installed before the effective date of the local law that added this section.

"New fireplace" means a fireplace that has been installed on or after the effective date of the local law that added this section.

"Treated firewood" shall have the same meaning as set forth in subdivision thirteen of section 192.5 of title six of the New York codes, rules and regulations.

(b) No person shall operate a fireplace as a primary source of heat, unless the source that normally supplies heat to the building in accordance with applicable state or local law is inoperable due to a fire, explosion, loss of power to the building or natural disaster including, without limitation, earthquakes, floods, winds, or storms, or as otherwise permitted by the rules of the department.

(c) No person shall operate any new fireplace unless it is operated solely on natural gas or on renewable fuel, as such term is defined in this code or as otherwise

defined by the rules of the department for the purposes of implementing this subdivision, provided that this subdivision shall not apply if an application for approval of construction documents for such fireplace was filed with the department of buildings on or before the effective date of the local law that added this section. Any such fireplace shall be deemed to be an existing fireplace and shall be subject to the provisions of law relating to the operation of an existing fireplace.

(d) No person shall operate any existing fireplace unless it is operated with the use of treated firewood having a moisture content of twenty percent or less by weight, renewable fuel, as such term is defined in this code or as otherwise defined by the rules of the department for the purposes of implementing this subdivision, or such other material as may be designated by the rules of the department.

(e) No person shall operate a fireplace unless such fireplace is in compliance with applicable federal emissions standards for particulate matter as set forth in section 60.532 of title forty of the code of federal regulations.

§ 26. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.3 to read as follows:

§24-149.3 Wood burning heaters. (a) No person shall operate any wood burning heater as a primary source of heat, unless the source that normally supplies heat to the building in accordance with applicable state or local law is inoperable due to a fire, explosion, loss of power to the building or natural disaster including, without limitation, earthquakes, floods, winds, or storms, or as otherwise permitted by the rules of the department.

(b) No person shall operate any wood burning heater unless it (i) is operated solely on renewable fuel, as such term is defined in this code or as otherwise defined by the rules of the department for the purposes of implementing this subdivision, and (ii) complies with part sixty of title 40 of the code of federal regulations.

§ 27. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.4 to read as follows:

§24-149.4 Commercial char broilers. (a) Definitions. As used in this section:

"New" means installed on or after the effective date of the local law that added this section.

"Existing" means installed before the effective date of the local law that added this section.

"Week" means a period of seven consecutive days starting on Sunday, unless a different start day is specified in the registration filed pursuant to section 24-109 of this code.

(b) No person shall operate any new commercial char broiler or any existing chain-driven commercial char broiler to cook more than eight hundred seventy-five pounds of meat, including but not limited to beef, lamb, pork, poultry, fish, or seafood, per week unless such commercial char broiler is equipped with an emissions control device that meets the requirements of the rules of the department.

(c) On or after January 1, 2018, the commissioner may promulgate rules regulating emissions from: existing chain-driven commercial char broilers used to cook eight hundred seventy-five pounds or less of meat per week or existing under-fired commercial char broilers.

(d) On or after January 1, 2020, the commissioner may promulgate rules regulating emissions from new commercial char broilers used to cook eight hundred seventy-five pounds or less of meat per week.

(e) The operator of a commercial char broiler shall maintain records regarding the dates of installation, replacement, cleaning, and maintenance of any emissions control device. Such records shall be made available to the department upon request.

(f) The operator of a commercial char broiler that is not equipped with an emissions control device that meets the requirements of the rules of the department shall maintain records showing the amount of meat purchased per month. There shall be a presumption that all meat purchased in a given month was cooked on a commercial char broiler. The records required pursuant to this subdivision shall be maintained for not less than one year and shall be made available to the department upon request.

(g) Notwithstanding any other provision this section, where a facility uses more than one commercial char broiler to cook meat, the amount of meat cooked per week shall be calculated for the purposes of this section based on the total amount of meat cooked on all commercial char broilers at the same facility.

§ 28. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.5 to read as follows:

§24-149.5 Cook stoves. (a) Definitions. As used in this section:

"New" means installed on or after the effective date of the local law that added this section.

"Existing" means installed before the effective date of the local law that added this section.

(b) No person shall use a new cook stove for the preparation of food intended for on-site consumption or retail purchase without the use of an emission control device for odors, smoke and particulate matter that meets the requirements for such system as established by the rules of the department.

(c) No person shall use an existing cook stove unless such cook stove is in compliance by January 1, 2020, with the requirements for control systems established by the commissioner pursuant to subdivision (b) of this section.

§ 29. Subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-149.6 to read as follows:

§24-149.6 Stationary engines. (a) Any stationary reciprocating compression ignition internal combustion engine that is required to obtain a certificate of operation pursuant to section 24-122 of this code for the first time on or after January 1, 2018, shall be equipped with an engine certified to the tier four emissions standards established by the United States environmental protection agency as set forth in section 60.4201 of title forty of the code of federal regulations or to any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent.

(b) On or after January 1, 2025, the certificate of operation for a stationary reciprocating compression ignition internal combustion engine will be renewed only if the owner or operator of such engine can demonstrate in accordance with

department rules that the engine meets the tier four emissions standards established by the United States environmental protection agency as set forth in section 60.4201 of title forty of the code of federal regulations or any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent.

(c) The owner or operator of a stationary reciprocating compression ignition internal combustion engine may apply to the commissioner for additional time to comply with the requirements subdivision (a) or (b) of this section. If the owner or operator can show that the timeframes set forth in subdivision (a) or (b) of this section would constitute an undue hardship, the commissioner may enter into a compliance agreement with the owner or operator. In determining whether the owner or operator has demonstrated undue hardship pursuant to this subdivision, the commissioner may consider whether there is a showing of financial hardship, public necessity, or other emergency condition that would make compliance with the requirements of this section impracticable.

(d) This section shall not apply to any emergency stationary internal combustion engine, as such term is defined in section 60.4219 of title forty of the code of federal regulations, or to any emergency stationary reciprocating internal combustion engine, as such term is defined in section 63.6675 of title forty of the code of federal regulations.

§ 30. Section 24-150 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is REPEALED.

§ 31. Subdivision (d) of section 24-152 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

(d) This section shall not apply to [refuse burning equipment,] refuse compacting equipment and fuel burning equipment [which] *that* primarily [serve] *serves* residents of a building or structure [which] *that* is occupied in whole or in part as the residence of one or more persons, or [which] *that* is occupied for transacting business, for rendering professional services, *or* for rendering public or civic services[, or for performing other commercial services that may incidentally involve the storage of limited quantities of stocks of goods for office use or purposes].

§ 32. Section 24-153 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is amended to read as follows:

§24-153 Emissions of air contaminant; environmental ratings. *(a)* No person shall cause, permit or allow the emission of *an* air contaminant from any equipment [altered or installed after August twentieth, nineteen hundred seventy-one, which] *used in a process covered by part two hundred twelve of title six of the New York codes, rules and regulations where such emission* exceeds the permissible emission rates specified in [figures one, two, three, four and five, for the environmental rating as determined in accordance with table one of this section] *the environmental ratings for process emissions sources as set forth in such part*.

[(a) On October first, nineteen hundred seventy-one, or such later date as established by an order of the commissioner the permissible emission rates specified in this section shall become applicable to equipment in existence on or prior to August twentieth, nineteen hundred seventy-one.]

(b) The provisions of this section shall not be construed to allow or permit any person to emit *an* air contaminant in quantities which alone or in combination with other sources would contravene any air quality standards.

(c) This section shall be supplemental to all other provisions of this code and in the event of conflict the more stringent section shall control.

[TABLE 1 Environmental Rating Criteria

Rating

A. Includes processes, and exhaust and ventilation systems where the discharge of air contaminant results, or would reasonably be expected to result, in serious adverse effects on receptors or the environment. These effects may be of a health, economic or aesthetic nature or any combination of these.

B. Includes processes, and exhaust and ventilation systems where the discharge of contaminant results, or would reasonably be expected to result, in only moderate and essentially localized effects; or where the multiplicity of sources of the contaminant in any given area is such as to require an overall reduction of the atmospheric burden of that contaminant.

C. Includes processes, and exhaust and ventilation systems where the discharge of contaminant would reasonably be expected to result in localized adverse effects of an aesthetic or nuisance nature.

D. Includes processes, and exhaust and ventilation systems where, in view of properties and concentrations of the emissions, isolated conditions, stack heights, and other factors, it can be clearly demonstrated that discharge of contaminant will not result in measurable or observable effects on receptors and not add to an existing or predictable atmospheric burden of that contaminant which would reasonably be expected to cause adverse effects.

The following items will be considered in making a determination of the environmental rating to be applied to a particular source:

(a) properties, quantities and rates of the emissions;

(b) physical surroundings of emission source;

(c) population density of surrounding area, including anticipated future growth;

(d) dispersion characteristics at or near source;

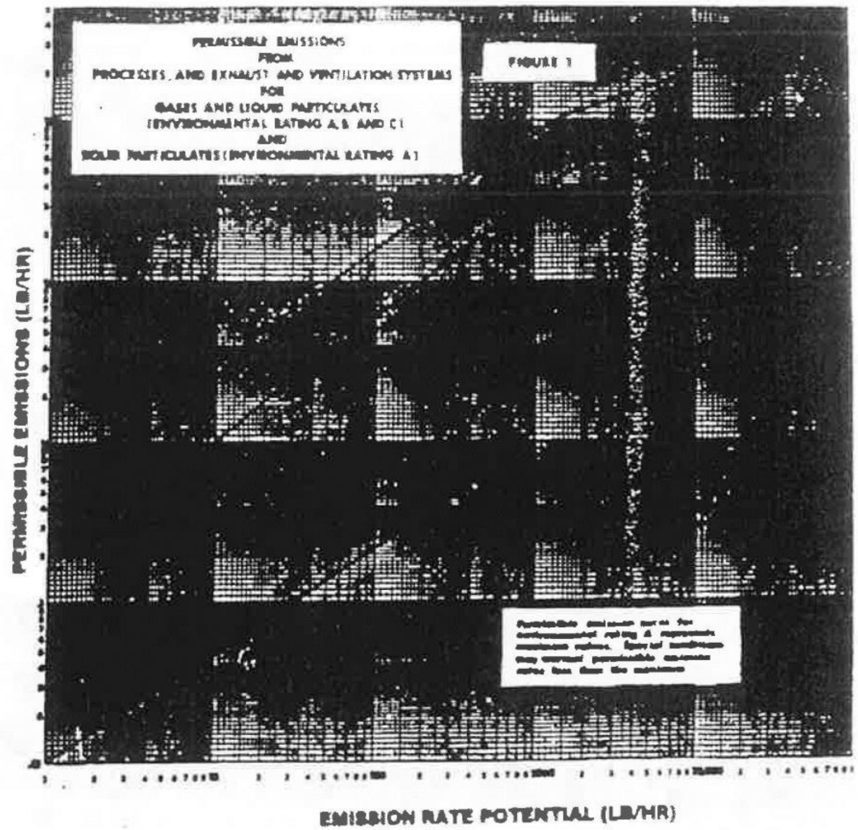
(e) location of emission source relative to ground level and surrounding buildings, hills, and other features of the terrain;

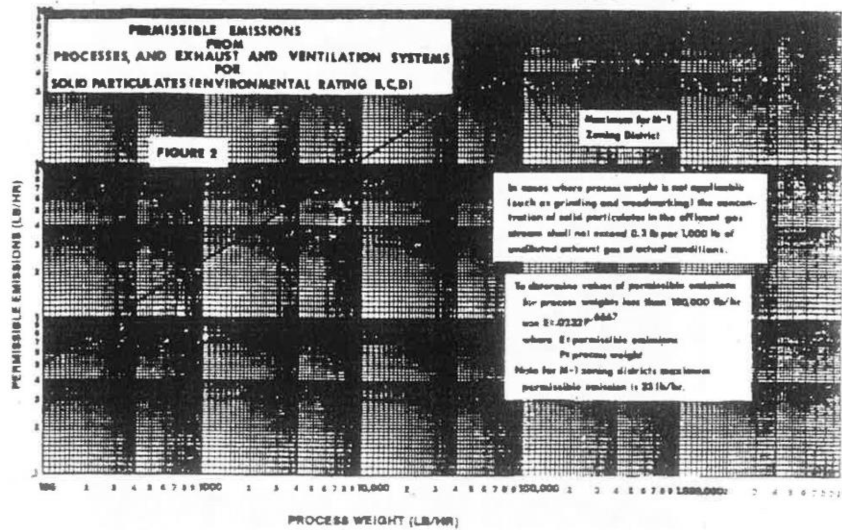
(f) current or anticipated ambient air quality in vicinity of source;

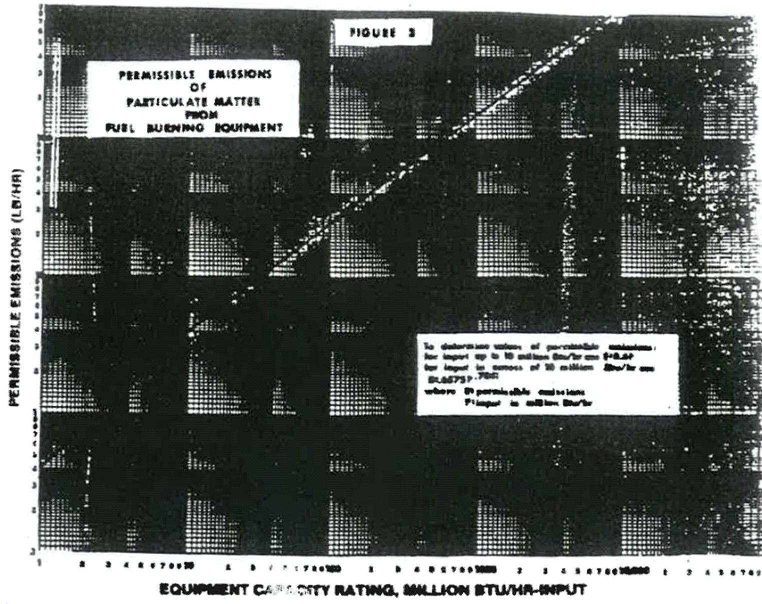
(g) latest findings relating to effects of ground-level concentrations of the emissions on receptors;

(h) possible hazardous side effects of air contaminant in question mixing with air contaminants already in ambient air; and

(i) engineering guides which are acceptable to the commissioner.


PERMISSIBLE EMISSIONS
FROM
PROCESSES, AND EXHAUST AND VENTILATION SYSTEMS
FOR
GASES AND LIQUID PARTICULATES
(ENVIRONMENTAL RATING A,B AND C)
AND
SOLID PARTICULATES (ENVIRONMENTAL RATING A)
FIGURE 1
PERMISSIBLE EMISSIONS (LB/HR)
EMISSION RATE POTENTIAL (LB/HR)


PERMISSIBLE EMISSIONS
FROM
PROCESSES, AND EXHAUST AND VENTILATION SYSTEMS
FOR
SOLID PARTICULATES (ENVIRONMENTAL RATING B,C,D)
FIGURE 2
PERMISSIBLE EMISSIONS (LB/HR)
PROCESS WEIGHT (LB/HR)



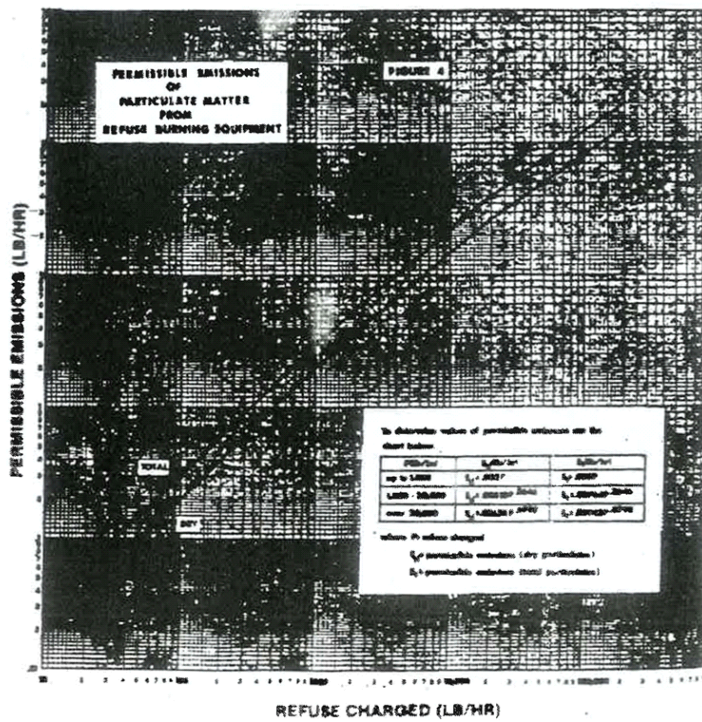


FIGURE 5

USUAL DEGREE OF AIR CLEANING REQUIRED (1) FROM PROCESSES, AND EXHAUST AND VENTILATION SYSTEMS FOR GASES AND LIQUID PARTICULATE EMISSIONS

(Environmental Ratings A*, B*, C*, and D) and

Solid Particulate Emissions

(Environmental Rating A*)†

Emission Rate Potential (lb/hr)

Environmental Rating	Less than 1.0	1 to 10	10 to 20	20 to 100	100 to 500	500 to 1,000	1,000 to 1,500	1,500 to 4,000	4,000 to 10,000	Greater than 10,000
A see Note (2)				99%			Greater than 99%			
B	**	90-? 91%	91-? 94%	94-? 96%	96-97%		97-? 98%		98- 99%	Greater than 99%
C	**	70-? 75%	75-? 85%	85-? 90%	90-93%		93-98%			Greater than 98%
D					**					

*? See Figure (1) for permissible emissions

†? See Figure (2) for permissible emissions of solid particulates for environmental rating B, C and D.

**? Degree of air cleaning may be specified by the commissioner providing satisfactory dispersion is achieved.

(1) Where multiple emission sources are connected to a common air cleaning device, the degree of air cleaning required will be that which would be required if each individual emission source were considered separately.

(2) For an average emission rate potential less than 1.0 lb./hr., the desired air cleaning efficiency shall be determined by the expected concentration of the air contaminant in the emission stream. Where it is uneconomical to employ air cleaning devices, other methods of control should be considered.]

(d) The commissioner may require any owner of equipment used in a process to provide pertinent data concerning emissions so as to show compliance with the requirements of this section.

§ 33. Section 24-154 of subchapter 6 of chapter 1 of title 24 of the administrative code of the city of New York is REPEALED.

§ 34. Subchapter 7 of chapter 1 of title 24 of the administrative code of the city of New York, section 24-163 as amended by local law number 25 for the year 2004, subdivision (a) of such section as amended by local law number 5 for the year 2009, subdivision (e) of such section as added by local law number 4 for the year 2009, subdivisions (f) and (g) of such section as added by local law number 5 for the year 2009, section 24-163.1 as added by local law number 38 for the year 2005, paragraph 11 of subdivision a of such section as amended by local law number 21 for the year 2006, paragraph 13 of subdivision a of such section as added by local law number 75 for the year 2013, paragraph 2 of subdivision d of such section as amended by local law number 76 for the year 2013, paragraph 3 of subdivision e of such section as added by local law number 75 for the year 2013, subdivision g of such section as amended by local law number 130 for the year 2005, section 24-163.2 as added by local law number 38 for the year 2005, paragraph 1 of subdivision d and subdivision g of section 24-163.2 as amended by local law number 21 for the year 2006, section 24-163.3 as added by local law number 77 for the year 2003, section 24-163.4 as added by local law number 39 for the year 2005, paragraph 4 of subdivision a of such section as amended by local law number 21 for the year 2006, paragraph 8 of subdivision a of such section as added, paragraph 1 of subdivision b of such section as amended, paragraph 3 of subdivision b of such section as added, subdivision f of such section as amended and subdivision i of such section as added by local law number 73 for the year 2013, section 24-163.5 as added by local law number 40 for the year 2005, paragraph 3 of subdivision b of such section as added by local law number 73 for the year 2013, subdivision h of such section as amended by local law number 74 for the year 2013, section 24-163.6 as added by local law number 41 for the year 2005, subdivision b of such section as amended by local law number 73 for the year 2013, subdivision e of such section as amended by local law number 74 for the year 2013, section 24-163.7 as added by local law number 42 for the year 2005, section 24-163.8 as added by local law number 16 for the year 2009, section 24-163.9 as added by local law number 61 for the year 2009, section 24-163.10 as added by local law number 72 for the year 2013, subdivision g of section 24-165 and subdivision c of section 24-166 as added by local law number 153 for the year 2013, and section 24-167 as amended by local law number 43 for the year 2010, is amended to read as follows:

SUBCHAPTER 7

EQUIPMENT AND APPARATUS: USE AND MAINTENANCE

§24-155 Maintenance of equipment and apparatus. The owner of equipment and apparatus shall maintain such equipment and apparatus in good operating order by regular inspection and cleaning and by promptly making repairs.

§24-156 Use of *fuel burning* equipment without using apparatus prohibited. (a) Except as provided in subdivision (b) of this section, no person shall cause or permit the use of *fuel burning* equipment [which] *that* is fitted with apparatus, other than experimental apparatus, unless the required apparatus is used.

(b) If *fuel burning* equipment is fitted with apparatus and is designed to use more than one kind of fuel, the equipment shall not be used unless the apparatus appropriate for the particular fuel is used.

[§24-158 Use of department of sanitation refuse burning equipment without control apparatus prohibited. (a) No person shall cause or permit the use of any incinerator operated by the department of sanitation unless there shall be installed therein control apparatus which incorporates the most effective advances in the art of air pollution control as determined by the commissioner but in no event shall the emissions exceed those specified in figure four of section 24-145 of this code.

(b) The commissioner shall submit a report to the city council on the first day of October and on the first day of April of each year setting forth in detail the extent of compliance with subdivision (a) of this section, the cause of whatever non-compliance may exist and what action is being undertaken to assure compliance.]

§24-159 Use of less than fully automatic equipment using fuel oil and use of any fuel burning equipment using residual fuel oil; supervision by licensed person. No person shall cause or permit the use of fuel burning equipment [which] *that* uses fuel oil and is less than fully automatic, or the use of fuel burning equipment, whether fully automatic or not, [which] *that* uses residual fuel oil, except under the direct supervision of a person having a certificate of fitness [as required by] *pursuant to* section [27-4014] *FC 113* of the [code] *New York City Fire Code*.

§24-160 Use of air contaminant recorder; boilers. No owner of a boiler with a capacity of five hundred million Btu per hour or more shall operate it without the installation and operation of an air contaminant recorder.

§24-161 Use of fuel burning equipment using residual fuel oil [and use of refuse burning equipment]; operation and supervision by trained person. (a) No person shall cause or permit the use of fuel burning equipment using residual fuel oil, [or of refuse burning equipment,] except under the operation and supervision of a person who has successfully completed a course of instruction in air pollution control approved by the commissioner [or completes such course within six months of his or her employment. For good cause shown, the department may temporarily exempt persons from this requirement].

(b) The commissioner may approve courses of instruction maintained by educational institutions, by industry, or by labor organizations.

(c) No person shall employ an operator or supervisor of fuel burning equipment using residual fuel oil or of refuse burning equipment who does not have an enrollment card or certificate issued by the department.

[§24-162 Operation of refuse burning eqiupment, other than municipal; time restriction. (a) No person shall cause or permit the operation of refuse burning equipment, other than refuse burning equipment operated by the department of sanitation, at any time other than between seven a.m. and five p.m., of the same day, except with the approval of the commissioner.

(b) The person seeking approval to operate refuse burning equipment at a time other than that specified under subdivision (a) of this section shall submit a written request in such form as prescribed by the commissioner.

(c) No person shall cause or permit the resumption of use of refuse burning equipment for which permission has been given for the discontinuance of operation or for which an order of discontinuance has been issued, unless permitted to do so by the commissioner.]

24-163 Operation of motor vehicle; idling of engine restricted. (a) No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than three minutes, except as provided in subdivision (f) of this section, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device. When the ambient temperature is in excess of forty degrees Fahrenheit, no person shall cause or permit the engine of a bus as defined in section one hundred four of the vehicle and traffic law to idle while parking, standing, or stopping (as defined above) at any terminal point, whether or not enclosed, along an established route.

(b) The department of transportation shall post signs relating to prohibited idling that shall comply with the standards set forth in the Manual on Uniform Traffic Control Devices and, where practicable, include the maximum penalty that may be imposed for a violation of subdivision a of this section as follows:

(1) a sign shall be posted at each exit within the city of New York of each bridge and tunnel having only one terminus in the city of New York;

(2) signs shall be posted at a minimum of five locations in each borough where two or more truck routes, whether local or through routes, intersect;

(3) a sign shall be posted at each bus layover area (other than school bus layover areas), designated by the commissioner of transportation pursuant to section 4-10(c)(3) of title 34 of the rules of the city of New York;

(4) a sign shall be posted at each multiple use bus terminal point;

(5) a sign shall be posted in close proximity to each school bus depot; and,

(6) signs shall be posted at other appropriate locations throughout the city as jointly determined by the commissioner and the commissioner of transportation, including but not limited to, locations for which the city receives a substantial number of complaints of idling motor vehicles.

(c) For the purpose of this section only the term "school bus depot" shall mean any garage, lot or other facility where buses that transport children to or from schools are parked over night and the term "multiple use bus terminal point" shall mean a location that is both a terminal point of at least one bus route (other than a school bus route) and a bus stop (other than a school bus stop) on one or more other bus routes.

(d) In any proceeding relating to a violation of the restrictions on idling it shall not be a defense that a sign required by this section was absent at the time of the violation.

(e) In addition to the department and the police department, the department of parks and recreation and the department of sanitation shall have the authority to enforce subdivision a of this section and shall have the power to issues summonses, appearance tickets and/or notices of violation for violations of such subdivision.

(f) No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than one minute if such motor vehicle is adjacent, as determined by rule, to any public school under the jurisdiction of the New York city department of education or to any non-public

school that provides educational instruction to students in any grade from pre-kindergarten to the twelfth grade level, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device, and provided that idling of an engine of a school bus may be permitted to the extent necessary: (1) for mechanical work; (2) to maintain an appropriate temperature for passenger comfort; or (3) in emergency evacuations where necessary to operate wheelchair lifts. It shall be an affirmative defense that any such school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred. (g) A report shall be submitted to the city council on an annual basis by: (1) the environmental control board that states the number of notices of violation issued for engine idling violations returnable to the environmental control board, including the total amount of penalties imposed for such notices of violations; and (2) the department of finance that states the number of summonses issued for engine idling violations pursuant to subdivision (p) of section 4-08 of title 34 of the rules of the city of New York, including the total amount of penalties imposed for such summonses.

§24-163.1 Purchase of cleaner light-duty and medium-duty vehicles. a. Definitions. When used in this section or in section 24-163.2 of this chapter:

[(1)] "Alternative fuel" means natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel which is at least eighty-five percent, singly or in combination, methanol, ethanol, any other alcohol or ether.

[(2)] "Alternative fuel motor vehicle" means a motor vehicle that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

[(3)] "Average fuel economy" means the sum of the fuel economies of all motor vehicles in a defined group divided by the number of motor vehicles in such group.

[(4)] "Bi-fuel motor vehicle" means a motor vehicle that is capable of being operated by both an alternative fuel and gasoline or diesel fuel, but may be operated exclusively by any one of such fuels.

[(5) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(6)] "Equivalent carbon dioxide" means the metric measure used to compare the emissions from various greenhouse gases emitted by motor vehicles based upon their global warming potential according to the California air resources board or the United States environmental protection agency.

[(7)] "Fuel economy" means the United States environmental protection agency city mileage published label value for a particular motor vehicle, pursuant to section 32908(b) of title 49 of the United States code.

[(8)] "Gross vehicle weight rating" means the value specified by the manufacturer of a motor vehicle model as the maximum design loaded weight of a single vehicle of that model.

[(9)] "Light-duty vehicle" means any motor vehicle having a gross vehicle weight rating of 8,500 pounds or less.

[(10)] "Medium-duty vehicle" means any motor vehicle having a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds.

[(11)] "Motor vehicle" means a vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability, provided, however, that this term shall not include vehicles that are specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department, fire department*,* [or] department of correction*, or office of the chief medical examiner*.

[(12)] "Purchase" means purchase, lease, borrow, obtain by gift or otherwise acquire.

[(13)] “Use-based fuel economy” means the total number of miles driven by all light-duty and medium-duty vehicles in the city fleet during the previous fiscal year divided by the total amount of fuel used by such vehicles during the previous fiscal year.

b. (1) Except as provided for in paragraphs two and three of this subdivision, beginning July 1, 2006, each light-duty vehicle and medium-duty vehicle that the city purchases shall achieve the highest of the following ratings, with subparagraph one of this paragraph being the highest vehicle rating, applicable to motor vehicles certified to California LEV II standards and available within the applicable model year for a light-duty vehicle or medium-duty vehicle that meets the requirements for the intended use by the city of such vehicle:

(i) zero emission vehicle (ZEV)

(ii) advanced technology partial zero emission vehicle (ATPZEV)

(iii) partial zero emission vehicle (PZEV)

(iv) super ultra low emission vehicle (SULEV)

(v) ultra low emission vehicle (ULEV)

(vi) low emission vehicle (LEV)

(2) The city shall not be required to purchase a zero emission vehicle or advanced technology partial zero emission vehicle in accordance with paragraph one of this subdivision if the only available vehicle or vehicles that achieve such a rating cost greater than fifty percent more than the lowest bid as determined by the applicable procurement process for a vehicle available in the next highest rating category that meets the requirements for the intended use by the city of such vehicle *or if, after consultation with the affected agency, the commissioner determines that the use of such vehicle would be impractical or would unduly hinder the operations of a city agency, or if the commissioner determines that the city lacks the charging and fueling infrastructure to support use of such a vehicle, provided that the next highest rating category that meets the requirements for the intended use by the city of such vehicle shall be selected*.

(3) Notwithstanding the requirements of paragraph one of this subdivision, such requirements need not apply to a maximum of five percent of the light-duty vehicles and medium-duty vehicles purchased within each fiscal year.

(4) For the fiscal year beginning July 1, 2005, at least eighty percent of the light-duty vehicles the city purchases in such fiscal year shall be alternative fuel motor vehicles.

c. (1) The city shall not purchase additional bi-fuel motor vehicles.

(2) Any bi-fuel motor vehicle that is owned or operated by the city shall be powered on the alternative fuel on which it is capable of operating, except that such vehicle may be operated on gasoline or diesel fuel (i) where, as of the date of enactment of this section, such vehicle is no longer mechanically able to operate on such alternative fuel and cannot be repaired, or (ii) solely for the period of time recommended by the vehicle manufacturer.

d. (1) Not later than October 1, 2005, the city shall complete an inventory of the fuel economy of all light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2004, and shall calculate the average fuel economy of all such light-duty vehicles.

(2) The city shall achieve the following minimum percentage increases in the average fuel economy of all light-duty vehicles purchased by the city during the following fiscal years, relative to the average fuel economy of all such vehicles purchased by the city during the fiscal year beginning July 1, 2004, calculated pursuant to paragraph one of this subdivision:

(i) For the fiscal year beginning July 1, 2006, five percent;

(ii) For the fiscal year beginning July 1, 2007, eight percent;

(iii) For the fiscal year beginning July 1, 2008, ten percent;

(iv) For the fiscal year beginning July 1, 2009, twelve percent;

(v) For the fiscal years beginning July 1, 2010 and July 1, 2011, fifteen percent;

(vi) For the fiscal years beginning July 1, 2012, July 1, 2013 and July 1, 2014, eighteen percent;

(vii) For the fiscal year beginning July 1, 2015, twenty percent;

(viii) For the fiscal year beginning July 1, 2016, twenty percent;

(ix) For the fiscal year beginning July 1, 2017, twenty-five percent;

(x) For the fiscal year beginning July 1, 2018, twenty-five percent;

(xi) For the fiscal year beginning July 1, 2019, thirty-percent;

(xii) For the fiscal year beginning July 1, 2020, thirty-percent;

(xiii) For the fiscal year beginning July 1, 2021, thirty-five percent; and

(xiv) For the fiscal year beginning July 1, 2022, and for each fiscal year thereafter, forty percent.

e. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the city's purchase of light-duty vehicles and medium-duty vehicles during the immediately preceding fiscal year. The information contained in this report shall also be included in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to, for each city agency: (i) the total number of light-duty vehicles and medium-duty vehicles and all other motor vehicles, respectively, purchased by such agency; (ii) the total number of light-duty vehicles and medium-duty vehicles,

respectively, purchased by such agency that are certified to California LEV II standards in each of the six rating categories listed in subdivision b of this section, disaggregated according to vehicle model; (iii) the reason as to why each vehicle model was purchased, rather than a vehicle model rated in a higher category listed in subdivision b of this section; (iv) if an available zero emission vehicle or advanced technology partial zero emission vehicle is not purchased, in accordance with paragraph two of subdivision b of this section, specific information regarding the cost analysis [that formed the] *or other* basis for such decision; (v) the percentage of light-duty vehicles and medium-duty vehicles purchased within each fiscal year in accordance with paragraphs one and two of subdivision b of this section; and (vi) for the report required not later than January 1, 2007, the percentage of light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2005 that were alternative fuel motor vehicles.

(2) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the fuel economy of light-duty vehicles purchased by the city during the immediately preceding fiscal year. The information contained in this report shall also be included in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to: (i) the average fuel economy of all light-duty vehicles purchased by the city during the preceding fiscal year; and (ii) the percentage increase in the average fuel economy of all such light-duty vehicles, relative to the average fuel economy of all light-duty vehicles purchased by the city during the fiscal year beginning July 1, 2004, calculated pursuant to paragraph one of subdivision d of this section, that this total amount represents.

(3) Not later than January 1, 2016, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the use-based fuel economy for the immediately preceding fiscal year. The information contained in such report shall also be included in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year.

f. (1) Beginning July 1, 2006, for each fiscal year, the city shall measure the amount of fuel consumed by the city's fleet of motor vehicles and the equivalent carbon dioxide emitted by such vehicles, for each type of fuel consumed by such vehicles.

(2) For the fiscal year beginning July 1, 2006, and for each fiscal year thereafter, the department shall publish on its website by October 1 following the close of each fiscal year and the mayor shall include in the preliminary mayor's management report and the mayor's management report for the relevant fiscal year the estimated total amount of fuel consumed by the city's fleet of motor vehicles and the estimated total amount of equivalent carbon dioxide emitted by such vehicles, disaggregated according to fuel type. For the purposes of this subdivision, the city's fleet of motor vehicles shall include vehicles specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department[or], fire department*, or office of the chief medical examiner*.

g. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the purchasing requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter; or

(3) except for subdivision f of this section, to diesel fuel-powered motor vehicles subject to paragraph two of subdivision b of section 24-163.4 of this chapter.

h. To the extent not prohibited by law, alternative fuel motor vehicles may be purchased by the city in concert with any public or private entity.

§24-163.2 Alternative fuel buses and sanitation vehicles. a. Definitions. When used in this section:

[(1)] "Alternative fuel bus" means a bus that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

[(2)] "Alternative fuel sanitation vehicle" means a sanitation vehicle that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

[(3)] "Alternative fuel street sweeping vehicle" means a vehicle used by the department of sanitation for street cleaning purposes that is operated using solely an alternative fuel or is operated using solely an alternative fuel in combination with gasoline or diesel fuel, and shall not include bi-fuel motor vehicles.

[(4)] "Bus" means a motor vehicle that is designed to transport more than twenty individuals.

[(5)] "Recyclable materials" means solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste.

[(6)] "Sanitation vehicle" means a vehicle used by the department of sanitation for street cleaning purposes or for the collection of solid waste or recyclable materials.

[(7)] "Solid waste" means all materials or substances discarded or rejected as being spent, useless, or worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous forms.

b. For the fiscal year commencing July 1, 2005, and for each fiscal year thereafter, at least twenty percent of the buses the city purchases in such fiscal year shall be alternative fuel buses.

c. (1) Beginning no later than March 1, 2006, the commissioner of sanitation shall implement a program for testing the mechanical reliability and operational feasibility of alternative fuel street sweeping vehicles. Such program shall include a pilot project regarding the exclusive utilization of alternative fuel street sweeping

vehicles in at least four sanitation districts, to be identified at the discretion of the commissioner of sanitation. At least one such district shall be located in an area where high rates of asthma are found and the commissioner shall consider asthma rates in his or her determination of where such other districts will be located.

(2) The department of sanitation shall collect and analyze data to further develop its initiatives for and assess the feasibility of incorporating new alternative fuel sanitation vehicles and technology into its fleet.

d. (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the mayor shall submit to the comptroller and the speaker of the council a report regarding the city's purchase of alternative fuel buses during the immediately preceding fiscal year. This report shall be included in the mayor's preliminary management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited to: (i) the total number of buses purchased by the city in the preceding fiscal year; *and* (ii) the number of such buses that are alternative fuel buses, disaggregated according to agency, bus model and type of alternative fuel used[; and (iii) the determination, if any, by the commissioner of correction that there were no alternative fuel buses available that met such department's needs pertaining to bus size, passenger capacity and security during the preceding fiscal year and the detailed analysis that formed the basis for such determination, and, where the department of correction has not purchased an alternative fuel bus due to cost, as provided for in paragraph three of subdivision g of this section, the detailed cost analysis that formed the basis for such decision].

(2) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner of sanitation shall report to the mayor, the comptroller and the speaker of the council on the department of sanitation's alternative fuel street sweeping vehicle pilot project and all testing, analyses and assessments completed pursuant to subdivision c of this section. Such report shall include, but not be limited to: (i) a description of all testing, analyses and assessments, respectively, completed pursuant to that subdivision and all conclusions based upon such testing, analyses and assessments, including specific information regarding efforts made by the department of sanitation to further develop initiatives for the incorporation of alternative fuel sanitation vehicles into its fleet, in addition to specific information regarding the feasibility of incorporating such vehicles into such fleet; (ii) the number of alternative fuel street sweeping vehicles included in the pilot project required pursuant to paragraph one of that subdivision, the districts where such vehicles are located and the type of alternative fuel used by such vehicles; and, (iii) the total number of alternative fuel sanitation vehicles owned or operated by the department of sanitation, disaggregated according to vehicle model and type of alternative fuel used.

e. Purchases of alternative fuel buses that exceed the minimum mandatory purchase requirements of subdivision b of this section for a particular fiscal year may be used to satisfy such applicable requirements for the immediately succeeding fiscal year.

f. To the extent not prohibited by law, alternative fuel buses and alternative fuel sanitation vehicles may be purchased by the city in concert with any public or private entity.

g. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the purchasing requirements of this section; [or]

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter*; or*

(3) to the purchase of buses for use by any city agency where the commissioner of such agency has made a written determination that there are no alternative fuel buses available that meet the needs of such agency with respect to bus size, passenger capacity or other special requirement, and has within ten business days thereafter submitted the determination to the speaker of the council accompanied by the detailed analysis that formed the basis for such determination; provided, however, that the purchase of buses for use by the agency shall become subject to the provisions of this section immediately after a determination by the commissioner, after consultation with the department of citywide administrative services, that an alternative fuel bus that meets such needs has become available; and provided, further, however, that the city shall not be required to purchase an alternative fuel bus for use by the agency if the only available alternative fuel bus that meets the needs of such agency with respect to bus size, passenger capacity or other special requirement costs more than fifty percent more than other buses that meet such needs of such agency.

h. The commissioner may by rule require periodic testing of alternative fuel buses and the submission of information concerning the operation and maintenance of such buses purchased or newly operated in the city to ensure compliance with this section and to collect information for reports required by this section.

i. The commissioner may order [the owner or operator of] *a city agency that owns or operates* a bus to which this section applies to conduct such tests, or the department may conduct such tests, as are necessary in the opinion of the commissioner to determine whether such bus is in compliance with this section.

j. The department may inspect at a reasonable time and in a reasonable manner any equipment, apparatus, fuel, matter or thing that affects or may affect the proper maintenance or operation of an alternative fuel bus to which this section applies.

§24-163.3 Use of ultra low sulfur diesel fuel and best available technology in nonroad vehicles. a. For purposes of this section only, the following terms shall have the following meanings:

[(1) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(2)] "Contractor" means any person or entity that enters into a public works contract with a city agency, or any person or entity that enters into an agreement with such person or entity, to perform work or provide labor or services related to such public works contract.

[(3) "Lower Manhattan" means the area of New York county consisting of the area to the south of and within Fourteenth street.

(4)] "Motor vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.

[(5)] "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United States code, except that this term shall apply to internal combustion engines used to power generators, compressors or similar equipment used in any construction program or project.

[(6)] "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, fifty horsepower and greater, and that is not a motor vehicle or a vehicle used solely for competition, which shall include, but not be limited to, excavators, backhoes, cranes, compressors, generators, bulldozers and similar equipment, except that this term shall not apply to horticultural maintenance vehicles used for landscaping purposes that are powered by a nonroad engine of sixty-five horsepower or less and that are not used in any construction program or project.

[(7) "Person" means any natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

(8)] "Public works contract" means a contract with a city agency for a construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; a contract with a city agency for the preparation for any construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; or a contract with a city agency for any final work involved in the completion of any construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge.

[(9) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.]

b. (1) Any diesel-powered nonroad vehicle that is owned by, operated by or on behalf of, or leased by a city agency shall be powered by ultra low sulfur diesel fuel.

(2) Any diesel-powered nonroad vehicle that is owned by, operated by or on behalf of, or leased by a city agency shall utilize the best available technology for reducing the emission of pollutants*, or shall be equipped with an engine certified to the applicable tier four emissions standards established by the United States environmental protection agency as set forth in section 1039.101 of title forty of the code of federal regulations or to any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent*.

c. (1) Any solicitation for a public works contract and any contract entered into as a result of such solicitation shall include a specification that all contractors in the performance of such contract shall use ultra low sulfur diesel fuel in diesel-powered nonroad vehicles and all contractors in the performance of such contract shall comply with such specification.

(2) Any solicitation for a public works contract and any contract entered into as a result of such solicitation shall include a specification that all contractors in the performance of such contract shall utilize the best available technology for reducing

the emission of pollutants for diesel-powered nonroad vehicles[and all]*, or shall utilize diesel-powered nonroad vehicles that are equipped with engines certified to the applicable tier four emissions standards established by the United States environmental protection agency as set forth in section 1039.101 of title forty of the code of federal regulations or to any subsequent United States environmental protection agency emissions standard for such engines that is at least as stringent. All* contractors in the performance of such contract shall comply with such specification.

d. (1) *(i)* The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available technology for reducing the emission of pollutants to be used for each type of diesel-powered nonroad vehicle to which this section applies for the purposes of paragraph two of subdivision b and paragraph two of subdivision c of this section. Each such determination, which shall be updated on a regular basis, but in no event less than once every six months, shall be primarily based upon the reduction in emissions of particulate matter and secondarily based upon the reduction in emissions of nitrogen oxides associated with the use of such technology and shall in no event result in an increase in the emissions of either such pollutant.

(ii) In determining the best available technology for reducing the emission of pollutants, the commissioner shall select technology from that which has been verified by the United States environmental protection agency or the California air resources board [for use in nonroad vehicles or onroad vehicles where such technology may also be used in nonroad vehicles, but the commissioner may select technology that is not verified as such as is deemed appropriate]*, as set forth in the executive orders of such board, for use in nonroad vehicles for each engine family. If no such technology exists for a specific engine family, then the commissioner shall select appropriate technology from that which has been verified by the United States environmental protection agency or the California air resources board as set forth in the executive orders of such board, for a different nonroad vehicle engine family. If no such appropriate technology exists for a different nonroad vehicle engine family, then the commissioner may select such technology that he or she deems appropriate*.

(2) No city agency or contractor shall be required to replace best available technology for reducing the emission of pollutants or other authorized technology utilized for a diesel-powered nonroad vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle *or on or before July 1, 2017, whichever is later*.

e. A city agency shall not enter into a public works contract subject to the provisions of this section unless such contract permits independent monitoring of the contractor's compliance with the requirements of this section and requires that the contractor comply with section 24-163 of this code. If it is determined that the contractor has failed to comply with any provision of this section, any costs associated with any independent monitoring incurred by the city shall be reimbursed by the contractor.

f. (1) [The provisions of subdivision b of this section shall apply to any diesel-powered nonroad vehicle in use in Lower Manhattan that is owned by, operated by or on behalf of, or leased by a city agency and the provisions of subdivision c of this

section shall apply to any public works contract for Lower Manhattan upon the effective date of this section.

(2)] The provisions of paragraph one of subdivision b of this section shall apply to all diesel-powered nonroad vehicles that are owned by, operated by or on behalf of, or leased by a city agency and the provisions of paragraph one of subdivision c of this section shall apply to all public works contracts six months after the effective date of this section.

[(3)] *(2)* The provisions of paragraph two of subdivision b of this section shall apply to all diesel-powered nonroad vehicles that are owned by, operated by or on behalf of, or leased by a city agency and the provisions of paragraph two of subdivision c of this section shall apply to any public works contract that is valued at two million dollars or more one year after the effective date of this section.

[(4)] *(3)* The provisions of paragraph two of subdivision c of this section shall apply to all public works contracts eighteen months after the effective date of this section.

g. [(1)] On or before January 1, 2005, and every succeeding January 1, the commissioner shall report to the comptroller and the speaker of the council on the use of ultra low sulfur diesel fuel in diesel-powered nonroad vehicles and the use of the best available technology for reducing the emission of pollutants and such other authorized technology in accordance with this section for such vehicles by city agencies during the immediately [preceeding] *preceding* fiscal year. This report shall include, but not be limited to (i) the total number of diesel-powered nonroad vehicles owned by, operated by or on behalf of, or leased by each city agency or used to fulfill the requirements of a public works contract for each city agency; (ii) the number of such nonroad vehicles that were powered by ultra low sulfur diesel fuel; (iii) the number of such nonroad vehicles that utilized the best available technology for reducing the emission of pollutants, including a breakdown by vehicle model and the type of technology used for each vehicle; (iv) the number of such nonroad vehicles that utilized such other authorized technology in accordance with this section, including a breakdown by vehicle model and the type of technology used for each vehicle; (v) the locations where such nonroad vehicles that were powered by ultra low sulfur diesel fuel and/or utilized the best available technology for reducing the emission of pollutants or such other authorized technology in accordance with this section were used; *and* (vi) [all findings, and renewals of such findings, issued pursuant to subdivision j of this section, which shall include, but not be limited to, for each finding and renewal, the quantity of diesel fuel needed by the city agency or contractor to power diesel-powered nonroad vehicles owned by, operated by or on behalf of, or leased by the city agency or used to fulfill the requirements of a public works contract for such agency; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision i of this section; and detailed information concerning the city agency's or contractor's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision i of this section; and (vii)] all findings and waivers, and renewals of such findings and waivers, issued pursuant to paragraph one or paragraph three of

subdivision [k] *j* or subdivision [m] *l* of this section, which shall include, but not be limited to, all specific information submitted by a city agency or contractor upon which such findings, waivers and renewals are based and the type of such other authorized technology, if any, utilized in accordance with this section in relation to each finding, waiver and renewal, instead of the best available technology for reducing the emission of pollutants.

[(2) Where a determination is in effect pursuant to subdivision i of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision.]

h. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

[i. The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of paragraph one of subdivision b and paragraph one of subdivision c of this section if ultra low sulfur diesel fuel is not available to meet the needs of city agencies and contractors to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months if ultra low sulfur diesel fuel is not available to meet the needs of city agencies and contractors to fulfill the requirements of this section, but in no event shall be in effect after September 1, 2006.

j.] *i.* Paragraph one of subdivision b and paragraph one of subdivision c, as that paragraph applies to all contractors' duty to comply with the specification, of this section shall not apply to [a city agency or contractor in its fulfillment of the requirements of a public works contract for such agency where such agency makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision i of this section, is not available to meet the requirements of paragraph one of subdivision b or paragraph one of subdivision c of this section, provided that such agency or contractor in its fulfillment of the requirements of a public works contract for such agency, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available. Any finding made pursuant to this subdivision shall expire after sixty days, at which time the requirements of paragraph one of subdivision b and paragraph one of subdivision c of this section shall be in full force and effect unless the city agency renews the finding in writing and such renewal is approved by the commissioner] *any diesel-powered nonroad vehicle covered under a federal waiver for the use of ultra-low sulfur diesel fuel issued by the United States environmental protection agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) or any regulation promulgated thereunder, provided that the city agency or contractor shall fully comply with the terms of such federal waiver, and that the requirements of*

paragraph one of subdivision b and paragraph one of subdivision c of this section shall be in full force and effect upon the expiration of such federal waiver.

[k.] *j*. Paragraph two of subdivision b and paragraph two of subdivision c, as that paragraph applies to all contractors' duty to comply with the specification, of this section shall not apply:

(1) to a diesel-powered nonroad vehicle where a city agency makes a written finding, which is approved, in writing, by the commissioner, that the best available technology for reducing the emission of pollutants as required by those paragraphs is unavailable for such vehicle, in which case such agency or contractor shall use whatever technology for reducing the emission of pollutants, if any, is available and appropriate for such vehicle; or

(2) to a diesel-powered nonroad vehicle that is used to satisfy the requirements of a specific public works contract for fewer than twenty calendar days; or

(3) to a diesel-powered nonroad vehicle where the commissioner has issued a written waiver based upon a city agency or contractor having demonstrated to the commissioner that the use of the best available technology for reducing the emission of pollutants might endanger the operator of such vehicle or those working near such vehicle, due to engine malfunction, in which case such city agency or contractor shall use whatever technology for reducing the emission of pollutants, if any, is available and appropriate for such vehicle, which would not endanger the operator of such vehicle or those working near such vehicle.

[l.] *k*. In determining which technology to use for the purposes of paragraph one or paragraph three of subdivision [k] *j* of this section, a city agency or contractor shall primarily consider the reduction in emissions of particulate matter and secondarily consider the reduction in emissions of nitrogen oxides associated with the use of such technology, which shall in no event result in an increase in the emissions of either such pollutant.

[m.] *l*. Any finding or waiver made or issued pursuant to paragraph one or paragraph three of subdivision [k] *j* of this section shall expire after one hundred eighty days, at which time the requirements of paragraph two of subdivision b and paragraph two of subdivision c of this section shall be in full force and effect unless the city agency renews the finding, in writing, and the commissioner approves such finding, in writing, or the commissioner renews the waiver, in writing.

[n.] *m*. Any contractor who violates any provision of this section[, except as provided in subdivision o of this section,] shall be liable for a civil penalty [between the amounts of one thousand and ten thousand dollars, in addition to twice the amount of money saved by such contractor for failure to comply with this section] *in accordance with section 24-178 of the code*.

[o. No] *n. Any* contractor [shall make] *that makes* a false claim with respect to the provisions of this section to a city agency *shall be subject to enforcement pursuant to the provisions of chapter eight of title seven of the code*. [Where a contractor has been found to have done so, such contractor shall be liable for a civil penalty of twenty thousand dollars, in addition to twice the amount of money saved by such contractor in association with having made such false claim.]

[p.] *o*. This section shall not apply to any public works contract entered into or renewed prior to [the effective date of this section] *June 19, 2004*.

[q.] *p.* Nothing in this section shall be construed to limit the city's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualification as a vendor, or otherwise deny a person or entity city business.

§24-163.4 Use of ultra low sulfur diesel fuel and best available retrofit technology by the city's diesel fuel-powered motor vehicles. a. Definitions. When used in this section:

[(1)] "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision d of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

[(2) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(3)] "Gross vehicle weight rating" means the value specified by the manufacturer of a motor vehicle model as the maximum design loaded weight of a single vehicle of that model.

[(4)] "Motor vehicle" means a vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability, provided, however, that this term shall not include vehicles that are specially equipped for emergency response by the department, office of emergency management, sheriff's office of the department of finance, police department or fire department or vehicles, other than buses, specially equipped for emergency response by the department of correction.

[(5)] "Person" means any natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

[(6)] "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision d of this section, when considering the cost of the strategies, themselves, and the cost of installation.

[(7)] "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

[(8)] “Biodiesel” means a fuel, designated B100, that is composed exclusively of mono-alkyl esters of long chain fatty acids derived from feedstock and that meets the specifications of [the American society of testing and materials] *ASTM* designation D 6751-12.

b. (1) Each diesel fuel-powered motor vehicle owned or operated by a city agency shall be powered by an ultra low sulfur diesel fuel blend containing biodiesel as follows:

i. for the fiscal years beginning July 1, 2014, and July 1, 2015, an ultra low sulfur diesel fuel blend containing at least five percent biodiesel (B5) by volume; and

ii. for the fiscal year beginning July 1, 2016, and thereafter, between the months of April to November, inclusive, an ultra low sulfur diesel fuel blend containing at least twenty percent biodiesel (B20) by volume, and between the months of December to March, inclusive, an ultra low sulfur diesel fuel blend containing at least five percent biodiesel (B5) by volume.

(2) Diesel fuel-powered motor vehicles having a gross vehicle weight rating of more than 8,500 pounds that are owned or operated by city agencies shall utilize the best available retrofit technology or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, pursuant to the following schedule:

i. 7% of all such motor vehicles by January 1, 2007;

ii. 14% of all such motor vehicles by January 1, 2008;

iii. 30% of all such motor vehicles by January 1, 2009;

iv. 50% of all such motor vehicles by January 1, 2010;

v. 70% of all such motor vehicles by January 1, 2011;

vi. 90% of all such motor vehicles by January 1, 2012;

vii. 100% of all such motor vehicles by July 1, 2012.

(3) Notwithstanding any provision of subdivision c of this section, diesel fuel-powered motor vehicles having a gross vehicle weight rating of more than 8,500 pounds that are owned or operated by city agencies shall utilize the best available retrofit technology that meets the level 4 emission control strategy as defined in subdivision d of this section, or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, pursuant to the following schedule:

i. 50% of all such motor vehicles by January 1, 2014;

ii. 70% of all such motor vehicles by January 1, 2015;

iii. 80 % of all such motor vehicles by January 1, 2016; and

iv. 90 % of all such motor vehicles by January 1, 2017.

c. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered motor vehicle to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) The commissioner may determine that a technology, whether or not it has been verified by the United States environmental protection agency or the California air resources board, may be appropriate to test, on an experimental basis, on a particular type of diesel fuel-powered motor vehicle owned or operated by a city agency. The commissioner may authorize such technology to be installed on up to five percent or twenty-five of such type of motor vehicle, whichever is less. Any motor vehicle on which such technology is installed may be counted for the purpose of meeting the requirements of paragraph two of subdivision b of this section. Such technology shall not be required to be installed on other motor vehicles of the same type and shall be subject to the provisions of paragraph three of this subdivision.

(3) No city agency shall be required to replace best available retrofit technology or experimental technology utilized for a diesel fuel-powered motor vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle, except that technology that falls within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it has reached the end of its useful life.

d. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

e. [The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of this section if ultra low sulfur diesel fuel is not available to meet the needs of city agencies to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months if such lack of availability persists, but in no event shall be in effect after September 1, 2006.

f. The commissioner may issue a waiver for the use of] (1) *Paragraph one of subdivision b of this section, as that paragraph applies to the requirement that each diesel fuel-powered motor vehicle owned or operated by a city agency be powered by* ultra low sulfur diesel fuel [where a city agency makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision e of this section, is not available to meet the requirements of this section, provided that such agency, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available for its diesel fuel-powered motor vehicles. Any waiver issued pursuant to this paragraph shall expire after two months, unless the city agency

renews the finding, in writing, and the commissioner approves such renewal, in writing]*, shall not apply to any motor vehicle covered under a federal waiver for the use of ultra-low sulfur diesel fuel issued by the United States environmental protection agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) or any regulation promulgated thereunder, provided that the city agency shall fully comply with the terms of such federal waiver, and that the requirements of paragraph one of subdivision b of this section shall be in full force and effect upon the expiration of such federal waiver*.

(2) The commissioner may issue a waiver for the use of an ultra low sulfur diesel fuel blend that contains the amount of biodiesel required pursuant to subdivision b of this section where a city agency makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of such ultra low sulfur diesel fuel blend containing biodiesel is not available to meet the requirements of this section. Any waiver issued pursuant to this paragraph shall expire after two months, unless the city agency renews the finding, in writing, and the commissioner approves such renewal, in writing.

(3) The commissioner may issue a waiver for the use of an ultra low sulfur diesel fuel blend that contains the amount of biodiesel required pursuant to subdivision b of this section where a city agency makes a written finding, which is approved, in writing, by the commissioner, that the use of biodiesel in a particular type of motor vehicle would void the manufacturer's warranty for such vehicle.

[g.] *f.* (1) Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology by diesel fuel-powered motor vehicles owned or operated by city agencies during the immediately preceding calendar year. The information contained in this report shall include, but not be limited to, for each city agency: (i) the total number of diesel fuel-powered motor vehicles owned or operated by such agency; (ii) the number of such motor vehicles that were powered by ultra low sulfur diesel fuel; (iii) the total number of diesel fuel-powered motor vehicles owned or operated by such agency having a gross vehicle weight rating of more than 8,500 pounds; (iv) the number of such motor vehicles that utilized the best available retrofit technology, including a breakdown by motor vehicle model, engine year and the type of technology used for each vehicle; (v) the number of such motor vehicles that are equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for particulate matter that is at least as stringent; (vi) the number of such motor vehicles that utilized technology in accordance with paragraph two of subdivision c of this section and the results and analyses regarding the testing of such technology; and (vii) all waivers, findings, and renewals of such findings, issued pursuant to subdivision [f] *e* of this section, which, for each waiver, shall include, but not be limited to, the quantity of diesel fuel needed to power diesel fuel-powered motor vehicles owned or operated by such agency[; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to

subdivision e of this section; and detailed information concerning the agency's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision e of this section.

(2) Where a determination is in effect pursuant to subdivision e of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision].

[(3)] *(2)* The report due January 1, 2007 in accordance with paragraph one of this subdivision shall only include the information required pursuant to subparagraphs (i), (ii) and (vii) of such paragraph.

[h.] *g*. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

[i.] *h.* B20 winter pilot program. Not later than December 1, 2016, the commissioner of citywide administrative services shall establish a pilot program to determine the feasibility of utilizing an ultra low sulfur diesel fuel blend containing at least twenty percent biodiesel (B20) by volume in city-owned diesel fuel-powered motor vehicles during the months of December to March, inclusive. The pilot program shall include not less than five percent of the city’s total diesel fuel-powered motor vehicle fleet, which shall be representative of the vehicle types and operating conditions of the fleet as a whole, and shall include vehicles from the department of citywide administrative services, department of environmental protection, department of parks and recreation, department of sanitation, and department of transportation and vehicles from other city agencies at the discretion of the commissioner of citywide administrative services. Such pilot program shall continue until March 31 of the second calendar year after such pilot program was initiated, and within four months of the conclusion of such pilot program, the commissioner of citywide administrative services shall issue a report to the mayor and the speaker of the council detailing the findings of such pilot program with recommendations for the use of an ultra low sulfur diesel fuel blend containing at least twenty percent biodiesel (B20) by volume in city-owned diesel fuel-powered motor vehicles during the months of December to March, inclusive.

§24-163.5 Use of ultra low sulfur diesel fuel and best available retrofit technology in the fulfillment of solid waste contracts and recyclable materials contracts. a. Definitions. When used in this section:

[(1)] "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board unless as otherwise deemed appropriate by the commissioner for a nonroad vehicle, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision d of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level

and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

[(2) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(3)] "Contractor" means any person or entity that enters into a solid waste contract or recyclable materials contract with a city agency, or any person or entity that enters into an agreement with such person or entity, to perform work or provide labor or services related to such solid waste contract or recyclable materials contract.

[(4)] "Motor vehicle" shall mean a vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability.

[(5)] "Nonroad engine" means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United States code, except that this term shall apply to internal combustion engines used to power generators, compressors or similar equipment used in the fulfillment of any solid waste contract or recyclable materials contract.

[(6)] "Nonroad vehicle" means a vehicle that is powered by a nonroad engine, fifty horsepower and greater, and that is not a motor vehicle or a vehicle used solely for competition, which shall include, but not be limited to, front loaders, excavators, backhoes, cranes, compressors, generators, bulldozers and similar equipment.

[(7)] "Operate primarily within the city of New York" means that greater than fifty percent of the time spent or miles traveled by a motor vehicle or nonroad vehicle during the performance of a solid waste contract or recyclable materials contract occurs within the city of New York.

[(8) "Person" means any natural person, co-partnership, firm, company, association, joint stock association, corporation or other like organization.

(9)] "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision d of this section, when considering the cost of the strategies, themselves, and the cost of installation.

[(10)] "Recyclable materials" means solid waste that may be separated, collected, processed, marketed and returned to the economy in the form of raw materials or products, including but not limited to types of metal, glass, paper, plastic, food waste, tires and yard waste.

[(11)] "Recyclable materials contract" means a contract with a city agency, the primary purpose of which is to provide for the handling, transport or disposal of recyclable materials.

[(12)] "Solid waste" means all materials or substances discarded or rejected as being spent, useless, or worthless, including but not limited to garbage, refuse, industrial and commercial waste, sludges from air or water pollution control facilities

or water supply treatment facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous forms.

[(13)] "Solid waste contract" means a contract with a city agency, the primary purpose of which is to provide for the handling, transport or disposal of solid waste.

[(14) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.]

b. (1) Any solid waste contract or recyclable materials contract shall specify that all diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used in the performance of such contract that operate primarily within the city of New York shall be powered by ultra low sulfur diesel fuel and all contractors in the performance of such contract shall comply with such specification.

(2) Any solid waste contract or recyclable materials contract shall specify that, as of March 1, 2006, all diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used in the performance of such contract that operate primarily within the city of New York shall utilize the best available retrofit technology and all contractors in the performance of such contract shall comply with such specification.

(3) Notwithstanding any provision of subdivision c of this section, any solid waste contract or recyclable materials contract entered into pursuant to requests for bids and/or requests for proposals issued after the effective date of the local law that added this paragraph shall specify that, as of January 1, 2017, all diesel fuel-powered motor vehicles used in the performance of such contract that operate primarily within the city of New York shall utilize the best available retrofit technology that meets the level 4 emission control strategy as defined in subdivision d of this section, or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, and all contractors in the performance of such contract shall comply with such specification.

c. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered motor vehicle and diesel fuel-powered nonroad vehicle to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) No contractor shall be required to replace best available retrofit technology or other authorized technology utilized for a diesel fuel-powered motor vehicle or diesel fuel-powered nonroad vehicle in accordance with the provisions of this section within three years of having first utilized such technology for such vehicle, except that technology that falls within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it has reached the end of its useful life.

d. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

e. A city agency shall not enter into a solid waste contract or recyclable materials contract subject to the provisions of this section unless such contract permits independent monitoring of the contractor's compliance with the requirements of this section and requires that the contractor comply with section 24-163 of this code. If it is determined that the contractor has failed to comply with any provision of this section, any costs associated with any independent monitoring incurred by the city shall be reimbursed by the contractor.

f. [The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of paragraph one of subdivision b of this section if ultra low sulfur diesel fuel is not available to meet the needs of contractors to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months if such lack of availability persists, but in no event shall be in effect after September 1, 2006.

g. The commissioner may issue a waiver for the use of ultra low sulfur diesel fuel where the city agency that has entered into the applicable solid waste contract or recyclable materials contract makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section, is not available to meet the requirements of this section, provided that the contractor, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available for its diesel fuel-powered vehicles. Any waiver issued pursuant to this subdivision shall expire after two months, unless the city agency renews the finding, in writing, and the commissioner approves such renewal, in writing] *Paragraph one of subdivision b of this section, as that paragraph applies to all contractors' duty to comply with the specification, shall not apply to any motor vehicle or nonroad vehicle covered under a federal waiver for the use of ultra-low sulfur diesel fuel issued by the United States environmental protection agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) or any regulation promulgated thereunder, provided that the contractor shall fully comply with the terms of such federal waiver, and that the requirements of paragraph one of subdivision b of this section shall be in full force and effect upon the expiration of such federal waiver.*

[h.] *g.* The commissioner may issue a waiver for the use of the best available retrofit technology by a diesel fuel-powered motor vehicle or diesel fuel-powered nonroad vehicle where the city agency that has entered into the applicable solid

waste contract or recyclable materials contract makes a written finding, which is approved, in writing, by the commissioner, that such technology is unavailable for purchase for such vehicle, in which case the contractor shall be required to use the technology for reducing the emission of pollutants that would be the next best best available retrofit technology and that is available for purchase for such vehicle. Any waiver issued pursuant to this subdivision shall expire after three years. The commissioner shall not renew any waiver issued pursuant to this subdivision after January 1, 2014.

[i.] *h.* (1) Paragraph two of subdivision b of this section shall not apply to a diesel-fuel powered motor vehicle that is equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

(2) Paragraph two of subdivision b of this section shall not apply to a diesel-fuel powered nonroad vehicle that is equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter for such vehicle as set forth in [the Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel; Final Rule, published in the federal register on June 29, 2004 at 69 Fed. Reg. 38,958 et seq.] *section 1039.101 of title forty of the code of federal regulations*, or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

[j. (1)] *i.* Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology by diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used in the performance of a solid waste contract or recyclable materials contract during the immediately preceding fiscal year. This report shall include, but not be limited to: (i) the total number of diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles, respectively, used in the performance of solid waste contracts or recyclable materials contracts; (ii) the number of such motor vehicles and nonroad vehicles, respectively, that were powered by ultra low sulfur diesel fuel; (iii) the number of such motor vehicles and nonroad vehicles, respectively, that utilized the best available retrofit technology, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv) the number of such motor vehicles and nonroad vehicles, respectively, that utilized other authorized technology in accordance with this section, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (v) the number of such motor vehicles and nonroad vehicles, respectively, that are equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter in accordance with subdivision [i] *h* of this section; (vi) the locations where such motor vehicles and nonroad vehicles, respectively, that were powered by ultra low sulfur diesel fuel, utilized the best available retrofit technology, utilized such other authorized technology in accordance with this section or were equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter were used; *and* (vii) [all waivers,

findings, and renewals of such findings, issued pursuant to subdivision g of this section, which shall include, but not be limited to, for each waiver, the quantity of diesel fuel needed by the contractor to power diesel fuel-powered motor vehicles and diesel fuel-powered nonroad vehicles used to fulfill the requirements of a solid waste contract or recyclable materials contract; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and detailed information concerning the contractor's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and (viii)] all waivers issued pursuant to subdivision [h] *g* of this section, which shall include, but not be limited to, all findings and specific information submitted by the city agency or contractor upon which such waivers are based and the type of other authorized technology utilized in accordance with this section in relation to each waiver, instead of the best available retrofit technology.

[(2) Where a determination is in effect pursuant to subdivision f of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision.

k.] *j.* This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section; or

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the charter.

[l.] *k.* Any contractor who violates any provision of this section[, except as provided in subdivision m of this section,] shall be liable for a civil penalty [of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such contractor for failure to comply with this section] *in accordance with section 24-178 of the code*.

[m.] *l.* Where a contractor has been found to have made a false claim with respect to the provisions of this section, such contractor shall be [liable for an additional civil penalty of twenty thousand dollars] *subject to enforcement pursuant to the provisions of chapter eight of title seven of the code*.

[n.] *m.* This section shall not apply to any solid waste contract or recyclable materials contract entered into or renewed prior to [the effective date of this section] *September 9, 2005*.

[o.] *n.* Nothing in this section shall be construed to limit the city's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualification as a vendor, or otherwise deny a person or entity city business.

§24-163.6 Use of best available retrofit technology by sight-seeing buses. a. Definitions. When used in this section:

[(1)] "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter

emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision d of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

[(2)] "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision d of this section, when considering the cost of the strategies, themselves, and the cost of installation.

[(3)] "Sight-seeing bus" means a motor vehicle designed to comfortably seat and carry eight or more passengers operating for hire from a fixed point in the city of New York to a place or places of interest or amusements, and shall also include a vehicle, designed as aforesaid which by oral or written contract is let and hired or otherwise engaged for its exclusive use for a specific or special trip or excursion from a starting point within the city of New York.

b. (1) Beginning January 1, 2007, any diesel fuel-powered sight-seeing bus that is licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code and that is equipped with an engine that is over three years old shall utilize the best available retrofit technology.

(2) Notwithstanding any provision of subdivision c of this section, any diesel fuel-powered sight-seeing bus that is licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code shall utilize the best available retrofit technology that meets the level 4 emission control strategy as defined in subdivision d of this section, or be equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent, by January 1, 2017.

c. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered sight-seeing bus to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) No owner or operator of a diesel fuel-powered sight-seeing bus licensed pursuant to the provisions of subchapter 21 of chapter 2 of title 20 of the administrative code shall be required to replace best available retrofit technology or other authorized technology utilized for a diesel fuel-powered bus in accordance with the provisions of this section within three years of having first utilized such technology for such bus, except that technology that falls within Level 4, as set forth in subdivision d of this section, shall not be required to be replaced until it has reached the end of its useful life.

d. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

e. The commissioner may issue a waiver for the use of the best available retrofit technology by a diesel fuel-powered sight-seeing bus where the department of consumer affairs makes a written finding, which is approved, in writing, by the commissioner, that such technology is unavailable for purchase for such bus, in which case the owner or operator of such bus shall be required to use the technology for reducing the emission of pollutants that would be the next best best available retrofit technology and that is available for purchase for such bus. Any waiver issued pursuant to this subdivision shall expire after three years. The commissioner shall not renew any waiver issued pursuant to this subdivision after January 1, 2014.

f. The requirements of subdivision b of this section shall not apply to a diesel-fuel powered sight-seeing bus that is equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

g. Not later than January 1, 2008, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of the best available retrofit technology by diesel fuel-powered sight-seeing buses during the immediately preceding fiscal year. This report shall include, but not be limited to: (i) the total number of diesel fuel-powered sight-seeing buses licensed pursuant to subchapter 21 of chapter 2 of title 20 of the administrative code; (ii) the number of such buses that utilized the best available retrofit technology, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iii) the number of such buses that utilized other authorized technology in accordance with this section, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv) the number of such buses that are equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter in accordance with subdivision f of this section; (v) the locations where such buses that utilized the best available retrofit technology, utilized such other authorized technology in accordance with this section or were equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter were used; (vi) the age of the engine with which each bus that did not utilize the best available retrofit technology is equipped; and (vii) all waivers issued pursuant to subdivision e of this section, which shall include, but not be limited to, all findings and specific information submitted by the department of consumer affairs or the owner or

operator of a diesel fuel-powered sight-seeing bus upon which such waivers are based and the type of other authorized technology utilized in accordance with this section in relation to each waiver, instead of the best available retrofit technology.

h. Any owner or operator of a diesel fuel-powered sight-seeing bus who violates any provision of this section[, except as provided in subdivision i of this section,] shall be liable for a civil penalty [of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such owner or operator for failure to comply with this section] *in accordance with section 24-178 of the code*.

i. Where an owner or operator of a diesel fuel-powered sight-seeing bus has been found to have made a false claim with respect to the provisions of this section, such owner or operator shall be [liable for an additional civil penalty of twenty thousand dollars] *subject to enforcement pursuant to the provisions of chapter eight of title seven of the code*.

§24-163.7 Use of ultra low sulfur diesel fuel and best available retrofit technology in school bus transportation. a. Definitions. For the purposes of this section only, the following terms shall have the following meanings:

[(1)] "Best available retrofit technology" means technology, verified by the United States environmental protection agency or the California air resources board, for reducing the emission of pollutants that achieves reductions in particulate matter emissions at the highest classification level for diesel emission control strategies, as set forth in subdivision e of this section, that is applicable to the particular engine and application. Such technology shall also, at a reasonable cost, achieve the greatest reduction in emissions of nitrogen oxides at such particulate matter reduction level and shall in no event result in a net increase in the emissions of either particulate matter or nitrogen oxides.

[(2)] "Department of education" means the New York city department of education, formerly known as the New York city board of education, and any successor agency or entity thereto, the expenses of which are paid in whole or in part from the city treasury.

[(3) "Person" means any natural person, partnership, firm, company, association, joint stock association, corporation or other legal entity.

(4)] "Reasonable cost" means that such technology does not cost greater than thirty percent more than other technology applicable to the particular engine and application that falls within the same classification level for diesel emission control strategies, as set forth in subdivision e of this section, when considering the cost of the strategies, themselves, and the cost of installation.

[(5)] "School bus" means any vehicle operated pursuant to a school bus contract, designed to transport ten or more children at one time, of the designation "Type C bus" or "Type D bus" as set forth in 17 NYCRR §§ 720.1(Z) and (AA), and used to transport children to or from any school located in the city of New York, and excluding any vehicle utilized primarily to transport children with special educational needs who do not travel to and from school in vehicles used to transport general education students.

[(6)] "School bus contract" means any agreement between any person and the department of education to transport children on a school bus.

[(7) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.]

b. (1) Beginning July 1, 2006, any diesel fuel-powered school bus that is operated by a person who fuels such school bus at any facility at which ultra low sulfur diesel fuel is available, or of which such person has the exclusive use and control, or at which such person has the ability to specify the fuel to be made available, shall be powered by ultra low sulfur diesel fuel.

(2) Beginning September 1, 2006, any diesel fuel-powered school bus to which paragraph one of this subdivision does not apply shall be powered by ultra low sulfur diesel fuel.

c. Diesel fuel-powered school buses shall utilize the best available retrofit technology in accordance with the following schedule:

i. 50% of school buses used to fulfill each school bus contract by September 1, 2006;

ii. 100% of school buses used to fulfill each school bus contract by September 1, 2007 and thereafter. .

d. (1) The commissioner shall make determinations, and shall publish a list containing such determinations, as to the best available retrofit technology to be used for each type of diesel fuel-powered school bus to which this section applies. Each such determination shall be reviewed and revised, as needed, on a regular basis, but in no event less often than once every six months.

(2) No person shall be required to replace best available retrofit technology or other authorized technology utilized for a diesel fuel-powered school bus in accordance with the provisions of this section within three years of having first utilized such technology for such bus, except that technology that falls within Level 4, as set forth in subdivision e of this section, shall not be required to be replaced until it has reached the end of its useful life.

(3) For purposes of this subdivision, any best available retrofit technology, or substantially similar technology, purchased or installed in whole or in part with funds provided by the state of New York or the federal government pursuant to a specific diesel emissions reduction program in effect upon the date of enactment of this section, shall constitute the best available retrofit technology for a period of not less than three years from the date on which such equipment was installed.

e. The classification levels for diesel emission control strategies are as follows, with Level 4 being the highest classification level:

i. Level 4 - strategy reduces diesel particulate matter emissions by 85 percent or greater or reduces engine emissions to less than or equal to 0.01 grams diesel particulate matter per brake horsepower-hour;

ii. Level 3 - strategy reduces diesel particulate matter emissions by between 50 and 84 percent;

iii. Level 2 - strategy reduces diesel particulate matter emissions by between 25 and 49 percent;

iv. Level 1 - strategy reduces diesel particulate matter emissions by between 20 and 24 percent.

f. [The commissioner shall issue a written determination that permits the use of diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of subdivision b of this section if ultra low sulfur diesel fuel is not available to meet the needs of school buses to fulfill the requirements of this section. Such determination shall expire after six months and shall be renewed in writing every six months thereafter if such lack of availability persists, but in no event shall be in effect after September 1, 2006.

g. The commissioner may issue a waiver for the use of ultra low sulfur diesel fuel where the department of education makes a written finding, which is approved, in writing, by the commissioner, that a sufficient quantity of ultra low sulfur diesel fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section, is not available to meet the requirements of this section, provided that school buses, to the extent practicable, shall use whatever quantity of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available. Any waiver issued pursuant to this subdivision shall expire after two months, unless the city agency renews the finding, in writing, and the commissioner approves renewal, in writing.

h.] *Subdivision b of this section shall not apply to any school bus covered under a federal waiver for the use of ultra-low sulfur diesel fuel issued by the United States environmental protection agency pursuant to 42 U.S.C. § 7545(c)(4)(C)(ii) or any regulation promulgated thereunder, provided that the owner and operator of such school bus shall fully comply with the terms of such federal waiver, and the requirements of subdivision b of this section shall be in full force and effect upon the expiration of such federal waiver.*

g. The commissioner may issue a waiver for the use of the best available retrofit technology by a diesel fuel-powered school bus where the department of education makes a written finding, which is approved, in writing, by the commissioner, that such technology is unavailable for purchase for such bus, in which case the owner or operator of such school bus shall be required to use the technology for reducing the emission of pollutants that would be the next best best available retrofit technology and that is available for purchase for such bus. Any waiver issued pursuant to this subdivision shall expire after three years.

[i.] *h.* Subdivision c of this section shall not apply to a diesel-fuel powered school bus that is equipped with an engine certified to the applicable 2007 United States environmental protection agency standard for particulate matter as set forth in section 86.007-11 of title 40 of the code of federal regulations or to any subsequent United States environmental protection agency standard for such pollutant that is at least as stringent.

[j. (1)] *i.* Not later than January 1, 2007, and not later than January 1 of each year thereafter, the commissioner shall submit a report to the comptroller and the speaker of the council regarding, among other things, the use of ultra low sulfur diesel fuel and the use of the best available retrofit technology by school buses during the immediately preceding fiscal year. The information contained in this report shall also be included in the mayor's preliminary management report and the mayor's management report for the relevant fiscal year and shall include, but not be limited

to: (i) the number of school buses used to fulfill the requirements of school bus contracts; (ii) the number of such buses that were powered by ultra low sulfur diesel fuel; (iii) the number of such buses that utilized the best available retrofit technology, including a breakdown by vehicle model, engine year and the type of technology used for each vehicle; (iv) the number of such buses that utilized other authorized technology in accordance with this section, including a breakdown by vehicle model, engine age and the type of technology used for each vehicle; (v) the number of such buses that are equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter in accordance with subdivision [i] *h* of this section; (vi) the school districts where such buses that were powered by ultra low sulfur diesel fuel, utilized the best available retrofit technology, utilized such other authorized technology in accordance with this section or were equipped with an engine certified to the applicable United States environmental protection agency standard for particulate matter were used; *and* (vii) [all waivers, findings and renewals of such findings issued pursuant to subdivision g of this section, which shall include, but not be limited to, for each waiver, the quantity of diesel fuel needed by the school bus owner or operator to power diesel fuel-powered school buses used to fulfill the requirements of a school bus contract; specific information concerning the availability of ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and detailed information concerning the school bus owner's or operator's efforts to obtain ultra low sulfur diesel fuel or diesel fuel that has a sulfur content of no more than thirty parts per million where a determination is in effect pursuant to subdivision f of this section; and (viii)] all waivers issued pursuant to subdivision [h] *g* of this section, which shall include, but not be limited to, all findings and specific information submitted by the department of education or a school bus owner or operator upon which such waivers are based and the type of other authorized technology utilized in accordance with this section in relation to each waiver, instead of the best available retrofit technology.

[(2) Where a determination is in effect pursuant to subdivision f of this section, information regarding diesel fuel that has a sulfur content of no more than thirty parts per million shall be reported wherever information is requested for ultra low sulfur diesel fuel pursuant to paragraph one of this subdivision.

k.] *j.* This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the New York city charter; or

(3) where federal or state law prohibits the application of the requirements of this section.

[l.] *k.* Any person who violates any provision of this section[, except as provided in subdivision m of this section,] shall be liable for a civil penalty [of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such person for failure to comply with this section] *in accordance with section 24-178 of the code*.

[m.] *l.* Where a person has been found to have made a false claim with respect to the provisions of this section, such person shall be [liable for an additional civil penalty of twenty thousand dollars] *subject to enforcement pursuant to the provisions of chapter eight of title seven of the code*.

[n.] *m.* This section shall not apply to any school bus contract entered into or renewed prior to [the effective date of this section] *May 9, 2005*.

[o.] *n.* Nothing in this section shall be construed to limit the authority of the department of education or of the city of New York to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity prequalification as a vendor, or otherwise deny a person or entity city business.

§24-163.8 Use of ultra low sulfur diesel fuel in diesel-powered generators used in the production of films, television programs and advertisements, and at street fairs. a. Definitions. When used in this chapter:

[(1)] "Alternative fuel" means a fuel, other than gasoline or standard diesel fuel, which may be used to power a generator subject to the provisions of this section so long as the respective quantities of each pollutant emitted by such generator when operated using such fuel do not exceed the respective quantities of each pollutant emitted when such generator is operated using ultra low sulfur diesel fuel.

[(2) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(3) "Generator" means a machine or device that combusts fossil fuel to create electricity.

(4) "Person" means any natural person, partnership, firm, company, association, joint stock association, corporation or other legal entity.

(5) "Ultra low sulfur diesel fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.]

b. (1) Any diesel-powered generator that is used to provide electrical power for equipment used in the production of any film, television program or advertisement, or for a street fair, where such production or street fair requires a permit from a city agency, shall be powered by ultra low sulfur diesel fuel.

(2) The mayor's office of film, theatre, and broadcasting shall issue to all film, television and advertising production companies that apply for a filming permit a notice that recites the provisions of this section and states that any diesel-powered generator that is utilized in a film, television or advertising production must use ultra low sulfur diesel fuel or an alternative fuel.

(3) The street activity permit office shall issue to all applicants for a street activity permit for a street fair a notice that recites the provisions of this section and states that any diesel-powered generator that is utilized for a street fair must use ultra low sulfur diesel fuel or an alternative fuel.

c. Any person who violates any provision of this section [or] *shall be liable for a civil penalty in accordance with section 24-178 of the code. Any person who* has been found to have made a false claim to a city agency with respect to the provisions

of this section shall be [liable for a civil penalty in the amount of five hundred dollars for each false claim to a city agency and five hundred dollars for each day in which they are otherwise in violation of such provision] *subject to enforcement pursuant to the provisions of chapter eight of title seven of the code*.

§24-163.9 Retrofitting of and age limitations on diesel fuel-powered school buses.

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

[(1)] "Department of education" means the New York city department of education, formerly known as the New York city board of education, and any successor agency or entity thereto, the expenses of which are paid in whole or in part from the city treasury.

[(2) "Person" means any natural person, partnership, firm, company, association, joint stock association, corporation or other legal entity.

(3)] "School bus" means any vehicle of the designation "Type A bus," "Type B bus," "Type C bus," or "Type D bus," as set forth in subdivisions x, y, z, and aa of section 720.1 of title seventeen of New York codes, rules and regulations, that is operated pursuant to a school bus contract and is used to transport children to or from any school located in the city of New York.

[(4)] "School bus contract" means any agreement between any person and the department of education to transport children on a school bus.

b. Diesel fuel-powered school buses shall utilize a closed crankcase ventilation system, selected from among the mobile sources devices identified and approved as part of the diesel retrofit verified technologies list by the United States environmental protection agency or the list of currently verified diesel emission control strategies by the California air resources board, to reduce engine emissions to the school bus cabin, in accordance with the following schedule:

(1) fifty percent of diesel fuel-powered school buses used to fulfill each school bus contract shall be equipped with such a closed crankcase ventilation system by September 1, 2010;

(2) one hundred percent of diesel fuel-powered school buses used to fulfill each school bus contract shall be equipped with such a closed crankcase ventilation system by September 1, 2011;

c. [Diesel] *Notwithstanding subdivision b of this section, any diesel fuel-powered school bus of the designation "Type A bus" or "Type B bus," as set forth in subdivisions x and y of section 720.1 of title seventeen of New York codes, rules and regulations, with a pre-2007 engine model year shall utilize a closed crankcase ventilation system within six months of a finding by the United States environmental protection agency or the California air resources board that such technology is available for use in such bus and is available from the manufacturer, provided however, that such technology shall not be required to be installed if such bus is scheduled to be retired within twelve months of such finding pursuant to the schedule set forth in paragraph two of subdivision d of this section.*

d. (1) No diesel fuel-powered school [buses] *bus of the designation "Type A bus" or "Type B bus," as set forth in subdivisions x and y of section 720.1 of title*

seventeen of New York codes, rules and regulations, with an engine model year of 2007 or later or that is utilizing a closed crankcase ventilation system pursuant to subdivision c of this section and no diesel fuel-powered school bus of the designation "Type C bus" or "Type D bus," as set forth in subdivisions z and aa of section 720.1 of title seventeen of New York codes, rules and regulations, shall [not] be used to fulfill any school bus contract beyond the end of the sixteenth year from the date of manufacture, as noted on the vehicle registration, or the end of the school year in which that date falls, whichever is later.

(2) Except for any "Type A bus" or "Type B bus" utilizing a closed crankcase ventilation system pursuant to subdivision c of this section, no diesel fuel-powered school bus of the designation "Type A bus" or "Type B bus," as set forth in subdivisions x and y of section 720.1 of title seventeen of New York codes, rules and regulations, with a pre-2007 engine model year shall be used to fulfill any school bus contract entered into pursuant to a request for proposals or request for bids issued after July 1, 2014 beyond the dates set forth in the following schedule:

i. All 1997 engine model years, September 1, 2014;

ii. All 1998 engine model years, September 1, 2015;

iii. All 1999 engine model years, September 1, 2016;

iv. All 2000 engine model years, September 1, 2017, and provided, further, that five percent of any contractor's "Type A buses" or "Type B buses" with 2001 through 2004 engine model years that are not utilizing a closed crankcase ventilation system pursuant to subdivision c of this section that are used to fulfill any school bus contract shall be replaced pursuant to subdivision e of this section by September 1, 2017;

v. All 2001 engine model years, September 1, 2018, and provided, further, that twenty percent of any contractor's "Type A buses" or "Type B buses" with 2002 through 2005 engine model years that are not utilizing a closed crankcase ventilation system pursuant to subdivision c of this section that are used to fulfill any school bus contract shall be replaced pursuant to subdivision e of this section by September 1, 2018;

vi. All 2002 engine model years, September 1, 2019, and provided, further, that twenty percent of any contractor's "Type A buses" or "Type B buses" with 2003 through 2006 engine model years that are not utilizing a closed crankcase ventilation system pursuant to subdivision c of this section that are used to fulfill any school bus contract shall be replaced pursuant to subdivision e of this section by September 1, 2019;

vii. All 2003 through 2006 engine model years, September 1, 2020.

[d.] *e.* School buses shall be replaced pursuant to subdivision [c] *d* of this section with (1) a school bus meeting the most recent diesel engine emissions standards issued by the United States environmental protection agency, or (2) an all-electric, gasoline-powered, compressed natural gas, or hybrid school bus, as long as the particulate matter emissions of such school bus do not exceed emission levels permitted in the most recent diesel engine emissions standards issued by the United States environmental protection agency.

[e.] *f.* No later than December 31, 2011, and no later than December 31 of every year thereafter, the department of education shall submit a report to the mayor and

the speaker of the council on compliance with this section. Such report shall include, but not be limited to, data on the age and crankcase ventilation retrofit status of every school bus pursuant to a school bus contract. The department of education shall also perform yearly reviews on a sample of school buses from at least ten different vendors to verify the accuracy of data reported.

[f.] *g*. This section shall not apply:

(1) where federal or state funding precludes the city from imposing the requirements of this section;

(2) to purchases that are emergency procurements pursuant to section three hundred fifteen of the New York city charter; or

(3) where federal or state law prohibits the application of the requirements of this section.

[g.] *h.* Any person who violates any provision of this section[, except as provided in subdivision h of this section,] shall be liable for a civil penalty [of not less than one thousand dollars and not more than ten thousand dollars, in addition to twice the amount of money saved by such person for failure to comply with this section] *in accordance with section 24-178 of the code*.

[h.] *i.* Where a person has been found to have made a false claim with respect to the provisions of this section, such person shall be [liable for an additional civil penalty of twenty thousand dollars] *subject to enforcement pursuant to the provisions of chapter eight of title seven of the code*.

[i.] *j.* Nothing in this section shall be construed to limit the authority of the department of education or of the city of New York to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity prequalification as a vendor, or otherwise deny a person or entity city business.

§24-163.10 Use of auxiliary power units in ambulances. a. When used in this section, “auxiliary power unit” means a device located on or in a vehicle that supplies cooling, heating and electrical power to such vehicle while the vehicle’s engine is turned off. Not later than [January first, two thousand fourteen] *January 1, 2014*, the fire department shall develop and implement a pilot project for a period of not less than one year to ascertain the benefits and reliability of utilizing auxiliary power units in ambulances operated by the city of New York. Such pilot project shall employ auxiliary power units to power the ambulance’s electrical load, diagnostic devices, ancillary electrical equipment, tools and cabin temperature without the need to engage the engine or use another source of power.

b. Not later than [July first, two thousand fifteen] *July 1, 2015*, the fire department shall submit a report to the mayor and the speaker of the council detailing the findings of such pilot project, including but not limited to data on actual reduction in vehicular emissions, and a cost-benefit analysis for equipping the entire ambulance fleet with auxiliary power units.

§24-163.11 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] *January 1, 2020*, 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] *2007* 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] *June 30, 2018*, 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] *January 1, 2019*, 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] *January 1, 2019*, 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] *January 1, 2025*. 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.

§24-163.12 Mobile food vending units. Any mobile food vending unit that is equipped with an auxiliary engine that meets applicable tier four emissions standards established by the United States environmental protection agency as set forth in section 1039.101 of title forty of the code of federal regulations or any subsequent United States environmental protection agency emissions standard for such engine that is at least as stringent, or that uses an alternative fuel, as defined by the rules of the department, shall be entitled to a waiver of any fee established by the department for the registration of such engine pursuant to section 24-109 of the code, so long as the engine is installed within eighteen months after the effective date of this section. The waiver of such fee shall remain in effect for twelve years or for

the duration of the life of the engine, whichever is shorter, provided that the engine is registered with the department. Failure to renew prior to the expiration date of the registration shall result in the revocation of the fee waiver.

§24-164 Operation of soot blower of vessels prohibited. No person shall cause or permit the soot blower of a vessel, other than a vessel which travels only in waters within the jurisdiction of the city of New York, to operate while the vessel is within the waters of the city.

§24-165 Use of air contaminant [detector; use of contaminant recorder; recording of time, duration, concentration and density of air conta

minant] *detectors and recorders*. (a) Whenever the use of an air contaminant detector is required by this code, the air contaminant detector must automatically cause both an audible signal sufficiently loud to be heard by a person of normal hearing twenty feet from the detector and a readily visible flashing red light upon the emission of an air contaminant of a density which appears darker than number one on the standard smoke chart, or of an opacity which obscures vision to a degree greater than smoke of number one density on the standard smoke chart.

(b) The [signalling] *signaling* devices of the air contaminant detector shall also be located at the principal work location of the person supervising the equipment.

(c) If two or more units of equipment are connected to a single flue, one air contaminant detector may be used if installed to monitor all of the units.

(d) If the light source of a photoelectric type of air contaminant detector fails to operate properly, the detector must automatically cause an audible signal sufficiently loud to be heard by a person of normal hearing twenty feet away from the detector and a readily visible flashing red light which shall continue to operate until manually reset.

(e) Whenever the use of an air contaminant recorder is required by this code, the air contaminant recorder must:

(1) continuously produce a record of the time, duration, concentration and density of an air contaminant of a density which appears darker than number one on the standard smoke chart, or of an opacity which obscures vision to a degree greater than number one; or

(2) continuously produce a record of the time, duration, and concentration of sulfur dioxide and nitrogen oxides by volume and particulate matter by weight.

(f) [Except as provided in section 24-171 of this code, the] *The* record made by the air contaminant recorder shall be dated and retained on the premises where the recorder is located for a period of sixty days from the last date appearing on the record.

(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.

§24-166 Use of combustion shutoff; halting of emission of air contaminant. (a) Whenever the use of a combustion shutoff is required by this code or by the commissioner, the combustion shutoff must automatically halt the operation of fuel burning equipment using fuel oil within two minutes after the emission of an air contaminant of a density which appears darker than number one on the standard smoke chart, or of an opacity which obscures vision to a degree greater than smoke of number one density on the standard smoke chart.

(b) No person shall cause or permit the resumption of the normal operation of the fuel burning equipment whose operation was halted by a combustion shutoff until the equipment operates in accordance with the standards of this code.

(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.

§24-167 Improper use of equipment or apparatus prohibited. No person shall use or permit the use of equipment or apparatus for a purpose or in a manner which causes it to function improperly or not in accordance with its design. Nothing in this section shall be construed to prohibit the use of bioheating fuel in equipment that may be adapted for such use.

§ 35. Subchapter 8 of chapter 1 of title 24 of the administrative code of the city of New York, subdivision (a) of section 24-168 as amended by local law number 43 for the year 2010, section 24-168.1 as added by local law number 43 for the year 2010, subdivision (i) of such section as added by location law number 107 for the year 2013, subdivisions (a) and (b) of section 24-169 as amended by local law number 43 for the year 2010, and section 24-173 as amended by local law number 93 for the year 1985 and as redesignated pursuant to section 14 of chapter 907 of the laws of 1985, is amended to read as follows:

SUBCHAPTER 8

FUEL STANDARDS

§24-168 Use of proper fuel in fuel burning equipment. (a) No person shall cause or permit the use of a kind or grade of fuel in fuel burning equipment [which] *that* is not designed to burn that kind or grade of fuel. Nothing in this subdivision shall be construed to prohibit the use of bioheating fuel in *fuel burning* equipment that [may be] *is* adapted for such use.

(b) No person shall cause or permit the burning of refuse material in fuel burning equipment unless the equipment is designed to burn refuse material.

(c) No person shall cause or permit a boiler to burn residual fuel on or after January 1, 2020.

(d) No person shall cause or permit a boiler to burn fuel oil grade no. 4 on or after January 1, 2030.

(e) No person shall cause or permit the use of a kind or grade of fuel in a diesel powered generator other than ultra low sulfur diesel.

§24-168.1 Clean heating oil. (a) Definitions. For the purpose of this section, the following terms shall have the following meanings:

[(1) "Biodiesel" shall mean a fuel, designated B100, that is composed exclusively of mono-alkyl esters of long chain fatty acids derived from feedstock and that meets the specifications of the American Society of Testing and Materials designation D 6751-09a.

(2) "Bioheating fuel" shall mean a fuel comprised of biodiesel blended with petroleum heating oil that meets the specifications of the American Society of Testing and Materials designation D 396-09a or other specifications as determined by the commissioner.

(3)] "District steam system" shall mean a system for the production of steam and for its transmission and distribution through underground pipelines to multiple buildings.

[(4) "Emergency generator" shall mean a machine or device that combusts fuel to create electricity and that is used for the purpose of providing backup power in the event of a general interruption in electrical service.

(5)] "Feedstock" shall mean soybean oil, oil from annual covercrops, algal oil, biogenic waste oils, fats or greases, or non-food grade corn oil, provided that the commissioner may modify the definition of feedstock based on the vegetable oils, animal fats or cellulosic biomass listed in table 1 of 40 C.F.R. § 80.1426.

[(6)] "Heating oil" shall mean oil refined for the purpose of use as fuel for combustion in a heating system and that meets the specifications of [the American Society of Testing and Materials] *ASTM* designation D [396-09a] *396-12* or other specifications as determined by the commissioner.

[(7)] "Heating system" shall mean a system that generates heat, hot air, hot water or steam by combustion and distributes it within a building*, provided that "heating system" shall not include wood burning stoves*.

[(8) "Renewable biomass" shall mean crops and crop residue from existing agricultural land, tree residues, animal waste material and byproducts, slash and pre-commercial thinnings from non-federal forest lands, biomass cleared from the vicinity of buildings and other areas to reduce the risk of wildfire, algae, and separated yard waste or food waste. Such term shall not include processed materials such as particle board, treated or painted wood, and melamine resin-coated panels.

(9) "Renewable fuel" shall mean fuel produced from renewable biomass.]

(b) (1) After October 1, 2012, no person shall cause or permit the use in any building in the city or deliver to any building in the city for use in such building, heating oil that is fuel oil grade no. 2[,] *or* no. 4 or [no. 6 containing] *residual fuel if such heating oil contains* less than two percent biodiesel by volume. The provisions of this subdivision shall not apply to the use or delivery of heating oil for use in an

emergency generator or for use in a boiler where heating oil from a dual-use tank supplies both such boiler and an emergency generator.

(2) The commissioner may authorize the use of any renewable fuel in heating systems if he or she determines that such fuel meets an applicable [American Society for Testing and Materials] *ASTM International* standard or other standard as determined by the commissioner, and the emissions from such fuel contain equal or lesser amounts of particulate matter, sulfur dioxide and nitrogen oxides than the emissions from fuel oil grade no. 2.

(c) The commissioner may waive the requirements of paragraph [1] *one* of subdivision b of this section in accordance with the provisions of this subdivision.

(1) A waiver may be issued for a particular type of boiler or fuel if the commissioner finds that:

(i) a sufficient quantity of bioheating fuel containing two percent biodiesel is not available in the city for that boiler type;

(ii) the price of available bioheating fuel for that boiler type is at least fifteen percent more than the price of a comparable fuel oil grade of one hundred percent petroleum heating oil;

(iii) the use of bioheating fuel would void the manufacturer's warranty for that boiler type; or

(iv) there is no applicable [American Society of Testing and Materials] *ASTM International* standard or other standard as determined by the commissioner to govern the specification of the bioheating fuel for purposes of receiving bids and enforcing contracts.

(2) Any waiver issued pursuant to subparagraph (i) or (ii) of paragraph [1] *one* of this subdivision shall expire after three months, unless renewed in writing by the commissioner.

(3) Any waiver issued pursuant to subparagraph (iii) or (iv) of paragraph [1] *one* of this subdivision shall expire after six months, unless renewed in writing by the commissioner.

(4) A waiver may be issued for a specific district steam system if the commissioner finds based on documentation submitted by the applicant, including but not limited to a report certified by a professional engineer, that compliance with the requirements of paragraph [1] *one* of subdivision b of this section would result in damage to equipment used to generate steam within such district steam system. Any waiver issued pursuant to this paragraph shall expire after one year, unless renewed in writing by the commissioner.

(d) (1) No later than September 1, 2013, and no later than September 1 of every year thereafter, the commissioner shall submit a report to the mayor and the speaker of the council, which shall include:

(i) all waivers, findings and renewals of such findings issued pursuant to this section during the immediately preceding calendar year;

(ii) a summary of the information received pursuant to subdivision e of this section;

(iii) all waivers, findings and renewals of such findings issued pursuant to subdivision b of section 24-169 of this code during the immediately preceding calendar year; and

(iv) determinations made by the commissioner regarding renewable biomass pursuant to paragraph [2] *two* of subdivision b of this section and any recommendations with respect to the use of renewable biomass in the city, considering appropriate standards and experiential use.

(2) The report required pursuant to this subdivision may be satisfied by including such information in the management report and preliminary management report made public and submitted to the council by the mayor pursuant to section twelve of the New York city charter.

(e) (1) The commissioner shall require persons who supply heating oil directly to buildings in the city to disclose annually to the commissioner the following information regarding fuel oil supplied:

(i) the amount in gallons of each fuel oil grade supplied by such person to buildings by zip code; and

(ii) the average percentage of biodiesel blended into each fuel oil grade supplied by such person within the city and the types of feedstock used in the creation of such biodiesel.

(2) The commissioner shall prescribe the form in which required information shall be reported annually to the department. Such form shall be certified by the person supplying the information as to the completeness and accuracy of the information provided.

(3) The department shall require that records be maintained to substantiate the information provided pursuant to this subdivision and that such records shall be made available for inspection and audit by the department for a period up to three years.

(f) *The department shall require that building owners who receive shipments of heating oil maintain such records as may be required by the commissioner by rule and make available such records for inspection and audit by the department for a period of up to three years. Such records may be maintained electronically.*

(g) The term "fuel oil" as used in any provision of the administrative code of the city of New York or the rules of the city of New York shall be deemed to include heating oil that is fuel oil grade no. 2, no. 4 or no. 6 containing biodiesel.

[(g) The commissioner shall promulgate rules to carry out the provisions of this section.]

(h) The commissioner shall have the authority to sample, test and analyze heating oil supplied to buildings in the city to determine compliance with this section.

(i) Use of biodiesel for heating purposes by city buildings. (1) After [October first, two thousand fourteen] *October 1, 2014*, all no. 2, no. 4 and no. 6 heating oil purchased for use in any building owned by the city shall be bioheating fuel containing not less than five percent biodiesel (B5) by volume except that the provisions of this subdivision shall not apply to the use of emergency generators.

(2) The commissioner of citywide administrative services shall institute a pilot program to use greater amounts of biodiesel in city-owned buildings. Such pilot

program shall require that beginning [October first, two thousand fourteen] *October 1, 2014*, the heating oil burned in not less than five percent of city-owned buildings shall contain at least ten percent biodiesel (B10) by volume. Such pilot program shall continue until [October first, two thousand fifteen] *October 1, 2015* and within six months of the conclusion of such pilot program, the commissioner of citywide administrative services shall issue a report to the mayor and the speaker of the council detailing the findings of such pilot program, including the utility of and any impediments to the use of ten percent biodiesel (B10) by volume in city-owned buildings and any recommendations for the use of ten percent biodiesel (B10) by volume in all city-owned buildings.

(3) The commissioner of citywide administrative services in conjunction with the office of long-term planning and sustainability shall undertake a one year study on the feasibility of the use of five percent biodiesel (B5) by volume in all buildings throughout the city. Such study shall include recommendations on whether and when the city should require the use of five percent biodiesel (B5) by volume in heating oil in all buildings and shall be issued to the mayor and the speaker of the council by [April first, two thousand fifteen] *April 2, 2015.*

§24-169 Sulfur content of fuel restricted. Except for ocean-going vessels engaged in international or interstate trade, no person[, other than one having a sulfur exemption certificate,] shall cause or permit the use, or if intended for use in *the city of* New York [city], the purchase, sale, offer for sale, storage or transportation of:

(a) Fuel oil grade no. 2 [as classified by the American Society for Testing and Materials] that contains more than [0.2 percent of sulfur by weight and after June 30, 2012, more than] the amount *of sulfur* set forth in section 19-0325 of the environmental conservation law or as provided by an executive order of the governor issued pursuant to such section.

(b) Residual fuel oil and fuel oil grade no. 4 [as classified by the American Society for Testing and Materials or solid fuel on a dry basis] that [contains] *contain* more than the following percentages of sulfur by weight:

(1) *for residual fuel oil* 0.30 percent and

(2) for fuel oil grade no. 4 [after October 1, 2012,] more than 0.15 percent, provided that the commissioner may waive the requirements of this paragraph if the commissioner finds that there is an insufficient quantity of fuel oil grade no. 2 that contains no more than 0.0015 percent of sulfur by weight. Any waiver issued pursuant to this subdivision shall expire after three months, unless renewed in writing by the commissioner. The [provisions of] *percentage provided in* paragraph [1] *one* of this subdivision shall apply *as the maximum percentage for fuel oil grade no. 4* during the period such waiver is in effect.

(c) [Residual fuel oil or fuel oil grade no. 4 as classified by the American society for testing and materials used in facilities for the generation of steam for off-premises sale and electricity, which contains more than the following percentages of sulfur by weight:

(1) For a period ending October first, nineteen hundred seventy-one, one percent;

(2) For a period ending October first, nineteen hundred seventy-two, an annual average of 0.55 percent;

(3) After October first, nineteen hundred seventy-two, 0.30 percent.

(d) Those facilities burning solid fuel which are operated in compliance with this code may, at the discretion of the commissioner, continue to burn solid fuel containing up to 0.7 percent sulfur after October first, nineteen hundred seventy-one, provided that there is no increase or expansion of use and further provided that a report, satisfactory to the commissioner, is submitted setting forth a detailed program, including a specific time schedule, for the termination of use of such solid fuel.

(e)] Sulfur by weight shall be calculated by the methods of the [American society for testing and materials] *ASTM designation D 2622-10*.

[§24-170 Reporting of fuel supplies. The owner of any boiler with a capacity of five hundred million Btu per hour or more shall report fuel supply information to the commissioner on or before the first day of each month.

§24-171 Sulfur exemption certificates. (a) Except for fuel burning equipment that must comply with the sulfur dioxide emission standards of section 24-144 of this code, the commissioner may grant a certificate of exemption from the sulfur content restrictions of section 24-169 of this code if the applicant establishes to the satisfaction of the commissioner that the fuel burning equipment is operated in such a manner, or is equipped with such control apparatus, as to continuously prevent the emission of any sulfur compound or compounds in an amount greater than that which would have been emitted from the same fuel burning equipment, if operated, in the absence of control apparatus, using fuel which complies with the sulfur content restrictions of section 24-169 of this code.

(b) The commissioner may grant a temporary certificate of exemption from the sulfur content restrictions of section 24-169 of this code, if the applicant establishes to the satisfaction of the commissioner that the application is for the purpose of conducting an experimental operation prior to application for a sulfur exemption certificate.

(c) A sulfur exemption certificate shall be valid for one year from the date granted or renewed, unless sooner suspended or revoked. Application for renewal shall be made by the holder of the certificate, and shall be postmarked, or where personally delivered, date stamped by the department no later than ninety days prior to the expiration of the certificate. The commissioner may renew a sulfur exemption certificate if he or she is satisfied that the provisions of this code and the conditions and terms contained in the certificate will be met.

(d) Any sulfur exemption certificate or temporary sulfur exemption certificate issued by the commissioner shall be limited to the kind and amount of fuel specified, and to use in the equipment described, and may be further limited as determined by the commissioner.

(e) A separate application for a sulfur exemption certificate or temporary sulfur exemption certificate shall be made for each unit of fuel burning equipment for which exemption is sought.

(f) In addition to the conditions and limitations for the issuance of a sulfur exemption certificate or temporary sulfur exemption certificate specified in this section, the commissioner may provide such further conditions or limitations as he or she may deem appropriate.

(g) A temporary sulfur exemption certificate shall be valid for three months from the date granted or renewed, unless sooner suspended or revoked. The commissioner

may renew a temporary certificate no more than once upon application which is postmarked or dated by the department no later than fourteen days prior to the expiration of the certificate.

§24-172 Volatile content of solid fuel restricted. (a) No person shall cause or permit the use of solid fuel as the normal boiler fuel which contains more volatile matter by weight in any part thereof than:

(1) If used in equipment which is hand-fed, fourteen percent; or

(2) If used in equipment which is mechanically fed, thirty-two percent.

(b) Volatile matter shall be calculated on a moisture and ash-free basis.]

§24-173 Use of [solid fuel] *coal*. (a) [Except as provided in subdivision (c) of this section, no person shall cause or permit the use of solid fuel in fuel burning equipment to provide heat or hot water for any structure or any part thereof, other than the generation of steam for off-premises sale.

(b) No person shall cause or permit the use of solid fuel in fuel burning equipment for any purpose whatsoever, unless he or she has complied with subdivision (c) of this section. No person shall cause or permit the use of bituminous coal in fuel burning equipment, for which an operating certificate or certificate of registration is required pursuant to this chapter for any purpose whatsoever.

(c) Solid fuel, unless otherwise prohibited by this section, may be used for fueling boilers used for on-site space heating, provided that:

(1) No expansion of capacity of the boiler shall be made over capacity existing on May twentieth, nineteen hundred sixty-eight; and

(2) Only anthracite coal is used; or

(3) The solid fuel shall meet the following criteria:

(a) Volatile content shall not exceed thirty-two percent by weight.

(b) Fixed carbon shall not be lower than sixty-six percent by weight.

(c) Ash shall not exceed four percent by weight.

(d) Sulfur shall not exceed 0.7 percent by weight.

(e) Heating value shall not be less than fourteen thousand seven hundred fifty Btu/lb.

All the above criteria shall be measured on a dry basis.] *No person shall cause or permit the use of any type of coal in fuel burning equipment, except for the use of anthracite coal in one of the following:*

(1) in the generation of electricity for utilities; or

(2) as provided in section 24-149.5 of this code.

[§24-174 Lead content of gasoline restricted. (a) No person shall cause or permit the use, or, if intended for use in the city of New York, the purchase, sale, offer for sale, storage or transportation of gasoline which contains more than the following amount of lead by weight for the respective octane ranges as follows:

95.9 Octane No.* & Above	Below 95.9 Octane No.*

(1) On and after November 1, 1971 2.0 grams per gal.	1.5 grams per gal.
(2) On and after January 1, 1972 1.0 grams per gal.	1.0 grams per gal.
(3) On and after January 1, 1973 0.5 grams per gal.	0.5 grams per gal.
(4) On and after January 1, 1974 zero grams	zero grams

* The term octane number shall mean research octane number or rating measured by the research method.

(b) Where the lead content of gasoline is restricted to zero grams per gallon as in subdivision (a) of this section, gasoline which contains 0.075 grams of lead per gallon shall be deemed to meet such restriction.

§24-175 Volatility limits on gasoline. Effective October first, nineteen hundred seventy-one, no person shall cause or permit the use, or, if intended for use in the city of New York, the purchase, sale, offer for sale, storage or transportation of gasoline which exceeds the following volatility limits:

(a) For the period October first, through April thirtieth, not to exceed twelve Reid vapor pressure.

(b) For the period May first through September thirtieth, not to exceed seven Reid vapor pressure.]

§24-176 Fuel information ticket required for shipment or delivery of fuel into *the city of* New York [city]. No person[, other than a dealer in solid fuel who complies with section 20-626 of the code,] shall cause or permit the shipment or delivery of fuel into *the city of* New York [city] for use in the city without first reporting the shipment or delivery on a form prescribed by the department to be known as a fuel information ticket. A fuel information ticket shall not be required for fuel shipped into *the city of* New York [city] in the engine fuel tank of a motor vehicle. A shipment or delivery includes any sale or non-sale transaction, or any transaction between shipper and recipient who are identical.

§24-177 General requirements for fuel information tickets. (a) Each fuel information ticket shall contain the following statement signed by the shipper of the fuel: “I hereby attest that I have shipped to the recipient named hereon the fuel specified in this ticket.”

(b) Copies of the fuel information ticket required to be retained by the shipper of fuel by subdivision (c) of this section shall be kept at the shipper's place of business. The copy of the fuel information ticket required to be retained by the recipient of the fuel by subdivision (c) of this section shall be kept at his or her place of business or at the place where the delivery was received.

(c) All records relating to the use of fuel, or the distribution, storage or transportation of fuel for use in the city of New York shall be retained for not less than one year and shall be kept readily available at all times during business hours for inspection by the department.

(d) This section shall apply to all shipments of fuel into the city and it shall be no defense to non-compliance that the shipment was not made pursuant to a sales transaction between the shipper and the recipient or that the shipper and the recipient are identical.

§ 36. Section 24-178 of the administrative code of the city of New York is REPEALED and subchapter 9 of title 24 of such code is amended by adding a new section 24-178 to read as follows:

§24-178 Powers of the board. (a) The board may, upon notice pursuant to this chapter, and after a hearing pursuant to the rules of the board:

(1) Order the commissioner to seal any equipment or apparatus which causes or is maintained or operated so as to cause a violation of any provision of this code or order or rule promulgated by the commissioner or the board, except as provided in subdivision (b) of this section;

(2) Order any person to cease and desist from any activity or process that causes or is conducted so as to cause, a violation of any provision of this code or any order or rule promulgated by the commissioner or the board, except as provided in subdivision (b) of this section;

(3) (i) Impose a civil penalty in each instance in an amount as hereinafter set forth in the table of civil penalties against any person who violates any provision of this code or of any order or rule promulgated thereunder.

TABLE OF CIVIL PENALTIES

Violation	*Minimum*	*Maximum*
24-108	*$200*	*$800*
24-109(a)(1)-(2)	*800*	*3200*
24-109(a)(3)-(17)	*400*	*1600*
24-109(f)	*400*	*1600*
24-109(g)	*400*	*1600*
24-111	*400*	*1600*
24-112	*400*	*1600*
24-113	*200*	*800*
24-118	*1600*	*6400*
24-120	*800*	*3200*
24-122	*800*	*3200*
24-123(d)	*800*	*3200*
24-131	*200*	*800*
24-136	*1000*	*15000*
24-138	*1000*	*15000*
24-139	*1600*	*6400*
24-141	*400*	*1600*
24-142	*400*	*1600*
24-143	*200*	*800*
24-143.1	*200*	*800*
24-145	*800*	*3200*

24-146(b)-(d)	400	1600
24-146(e), (f)	800	3200
24-147	800	3200
24-148	800	3200
24-149	200	800
24-149.1	400	1600
24-149.2	400	1600
24-149.3	400	1600
24-149.4	800	3200
24-149.5	400	1600
24-151	800	3200
24-152	200	800
24-153	800	3200
24-155	400	1600
24-156	400	1600
24-159	200	800
24-160	400	1600
24-161	200	800
24-163	200	2000
24-163.3, 24-163.5, 24-163.6, 24-163.7, 24-163.9	1000[1]	10000[1]
24-163.8	500	500
24-163.11	0	10000[2]
24-164	400	1600
24-165	0	1600
24-166	0	875
24-167	200	800
24-168	800	3200
24-168.1	800	3200
24-169	1600	6400
24-173	1600	6400
24-176	200	800
24-177	200	800
All other sections, subdivisions and paragraphs of this chapter	400	1600

[1] *Plus twice the amount saved by failing to comply.*

[2] Plus five hundred dollars per day for each day the violation is not corrected beyond sixty days from the date of an order of the commissioner or of the chairperson of the business integrity commission to correct the violation.

(ii) Impose a separate penalty for each day on which a violation under this code shall have occurred.

(iii) Impose an additional civil penalty, in the amount of ten per cent (10%) of the penalty originally imposed, for late payment of a penalty for each month or part thereof that the penalty payment is in arrears. In no event shall the total additional civil penalty exceed the maximum set forth in the table of civil penalties.

(4) Impose a civil penalty of not less than one thousand nor more than four thousand dollars on any person who willfully breaks, or causes or permits the breaking of, a seal placed on equipment pursuant to this section.

(b) The board may, upon notice pursuant to section 24-180 of this code, order any person to:

(1) Cease and desist from the installation or alteration of equipment or apparatus, without a permit as required by section 24-120 of this code;

(2) Cease and desist from the operation of any equipment or apparatus without a certificate and the board may also order the commissioner to seal any such equipment or apparatus;

(3) Cease and desist from the spraying of insulating material on, or the demolition of, any building or structure which does not conform to the requirements of section 24-109 or 24-146 of this code or any rule promulgated thereunder. The board may also order the commissioner to seal any equipment used therefor.

(c) The board may order the commissioner to install any apparatus or to clean, repair, or alter any equipment or apparatus which causes or is maintained or operated so as to cause a violation of an order issued pursuant to paragraph two of subdivision (a) of this section, where such installation, cleaning, repairing, or alteration can reasonably be expected to correct such a violation. Any work required under such an order may be executed by the commissioner through the officers, agents or contractors of the department. The department shall be reimbursed promptly for all costs and expenses of such work by the owner of the equipment or apparatus to which the order relates and in respect to which such expenses were incurred. Such expenses may be recovered in a civil action brought in the name of the commissioner.

(d) If an order of the board issued pursuant to subdivisions (a) and (b) of this section provides for a period of time during which a person subject to the order is permitted to correct a violation, the board may require the respondent to post a performance bond or other security with the department in a form and amount sufficient to assure the correction of such violation within the prescribed time. In the event of a failure to meet the schedule prescribed by the board, the sum named in the bond or other security shall be forfeited and shall be paid to the commissioner.

(e) The board may order any person to cease and desist from an activity which it reasonably believes causes an emission of an air contaminant which creates an imminent peril to the public health. Such order shall be effective upon service thereof. Any party affected by such an order may request a hearing on written notice, and he or she shall be afforded a hearing, within twenty-four hours after service of

such request, pursuant to the rules of the board. If such an accelerated hearing is not requested, then a hearing shall be afforded within ten days of the issuance of the order. The board shall issue its final decision and order thereon within three days from the conclusion of a hearing held pursuant to this subdivision.

§ 37. Section 24-179 of the administrative code of the city of New York is REPEALED.

§ 38. Section 24-180 of the administrative code of the city of New York is amended to read as follows:

§24-180 Notice of violation. (a) Notice, required by this subchapter, shall be given by issuance of a notice of violation.

(b) Whenever the commissioner has reasonable cause to believe that a violation of any provision of this code or any order or [regulation] *rule* promulgated thereunder may exist, he or she may cause to have a notice of violation issued and served on:

(1) The person in violation; or

(2) An owner [with an equity interest in] *of* the equipment in violation[; or

(3) If an owner with an equity interest in the equipment in violation cannot be located with due diligence, any other owner of said equipment].

(c) A notice of violation shall[:

(1) Specify the section or sections of this code, order, or regulation that such person or equipment is in violation of; and

(2) Indicate the amount of the civil penalty that such person is subject to; and

(3) Contain a brief statement of the nature of the violation; and

(4) Require a written response that conforms to section 24-181 of this code; and

(5) Require such person or owner of equipment to answer the allegations in the notice of violation at a designated time and place, unless a hearing is not required by section 24-178 of this code] *include the information specified in the rules of the board*.

§ 39. Section 24-181 of the administrative code of the city of New York is REPEALED.

§ 40. Section 24-182 of the administrative code of the city of New York, subdivision (a) as amended by local law number 4 for the year 2009, is amended to read as follows:

§24-182 Citizen's complaint. (a) Any person, other than personnel of the department and employees of the city of New York authorized by law to serve summonses for violations of the code, may serve upon the department a complaint, in a form prescribed by the department, alleging that a person has violated any provision of this code or order or regulation promulgated by the commissioner or the board, except with respect to sections 24-143[, 24-150] and 24-163 of this code, but still applicable to buses as defined in section one hundred four of the vehicle and traffic law and trucks as defined in section one hundred fifty eight of the vehicle and traffic law, together with evidence of such violation. With respect to section 24-142 of this code, only such person who has been certified as a smoke watcher, by passing a course of smoke observation approved by the department within three years prior to the observation, may serve such complaint.

(b) A person who has served a complaint pursuant to subdivision (a) of this section may serve upon the person allegedly in violation, and upon the board, a notice of violation in a form prescribed by the board within forty-five days from service of such complaint if;

(1) The department has failed to serve a notice of violation, pursuant to [section 24-180 of this code] the rules of the board, for the violation alleged in a complaint pursuant to subdivision (a) of this section; or

(2) The department fails to serve a written notice upon the complainant of its determination that his or her complaint is frivolous or duplicitous.

(c) A person commencing a proceeding pursuant to this section shall prosecute such proceeding at his or her own expense. The department may intervene in such a proceeding at any time.

(d) In any proceeding brought by the department after receiving a complaint, pursuant to subdivision (a) of this section, pertaining to a violation of this code or any regulation or order promulgated by the commissioner or the board, wherein the source of the violation is a manufacturing or industrial facility or a facility for the generation of steam for off-premises sale or electricity or equipment used by any such facility, the board shall award the complainant, out of the proceeds collected, an amount which shall not exceed twenty-five percent of such proceeds, for disclosure of information or evidence, not in the possession of the department prior to the receipt of the complaint by the department, which leads to the imposition of the civil penalty.

(e) In any proceeding brought by a complainant pursuant to subdivision (a) of this section, the board shall award, out of the proceeds collected, fifty percent of any civil penalty as fair and reasonable compensation to such person.

§ 41. Section 24-183 of the administrative code of the city of New York is amended to read as follows:

§24-183 [Settlement of proceedings. The board may settle any proceeding by stipulation and may exercise any or all of its powers under section 24-178 of this code thereby, at any time prior to the issuance of a decision pursuant to section 24-186 of this code] *Adjudication, settlement and settlement by stipulation. The adjudication, settlement or settlement by stipulation of any notice of violation issued pursuant to this subchapter shall be in accordance with section 1049-a of the New York city charter and the applicable rules of the board*.

§ 42. Sections 24-184, 24-185, 24-186, 24-187 and 24-188 of the administrative code of the city of New York are REPEALED.

§ 43. Subdivision (f) of section 24-190 of the administrative code of the city of New York is REPEALED.

§ 44. Subdivisions (g) and (h) of section 24-190 of the administrative code of the city of New York are designated subdivisions (f) and (g) respectively.

§ 45. Section 28-106.1.1 of the administrative code of the city of New York, as amended by local law number 141 for the year 2013, is amended to read as follows:

§28-106.1.1 Full demolition permit. The commissioner shall not issue a full demolition permit unless the owner of the building provides certification in a form and manner to be provided in the rules of the department of environmental protection

that (i) the building is free of asbestos containing material, or (ii) the commissioner of environmental protection, has issued a variance from this requirement in accordance with subdivision [(o)] *(m)* of section [24-146.1] *24-136* of the administrative code and the rules of the department of environmental protection, subject to the requirement that demolition work will be performed only in parts of the building that are certified free of asbestos containing material. The full demolition permit shall be subject to such additional conditions as the department of buildings may require of the permittee based on the size and complexity of the demolition work.

Exception: This section 28-106.1.1 shall not apply to full demolition performed as emergency work pursuant to article 215 of chapter 2 of this title where the emergency warrants immediate commencement of the work or full demolition with asbestos in place authorized pursuant to 12 NYCRR 56-11.5.

§ 46. Section 28-106.1.2 of the administrative code of the city of New York, as added by local law number 77 for the year 2009, is amended to read as follows:

§28-106.1.2 Alteration permit for the removal of one or more stories. The commissioner shall not issue an alteration permit for the removal of one or more stories of a building unless the owner of the building provides certification in a form and manner to be provided in the rules of the department of environmental protection that (i) the stories to be removed are free of asbestos containing material and that no abatement activities will be performed anywhere in the building concurrently with the removal work authorized by such permit or (ii) the commissioner of environmental protection has issued a variance from these requirements in accordance with subdivision [(o)] *(m)* of section [24-146.1] *24-136* of the administrative code and the rules of the department of environmental protection, subject to the requirement that work authorized by the alteration permit will be performed only in parts of the building that are certified free of asbestos containing material. The alteration permit shall be subject to such additional conditions as the department of buildings may require of the permittee based on the size and complexity of the work.

Exception: This section 28-106.1.2 shall not apply to removal of one or more stories performed as emergency work pursuant to article 215 of chapter 2 of this title where the emergency warrants immediate commencement of the work.

§ 47. Section 28-106.3 of the administrative code of the city of New York, as added by local law number 37 for the year 2009, is amended to read as follows:

§28-106.3 Permit exemption. Except as otherwise provided by rule, work performed in the course of and only for the purpose of an asbestos project that is required to be permitted pursuant to section [24-146.3] *24-138* of the administrative code shall be exempt from the permit requirements of this code.

§ 48. Section 28-106.4 of the administrative code of the city of New York, as added by local law number 37 for the year 2009, is amended to read as follows:

§28-106.4 Definitions. For the purposes of this article, the terms "asbestos" and "asbestos project" shall have the meanings as are ascribed in section [24-146.1] *24-136* of the administrative code.

§ 49. Section 2111.1 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

2111.1 [Definition] *General*. A masonry fireplace is a fireplace constructed of concrete or masonry. Masonry fireplaces shall be constructed in accordance with this section, Table 2111.1 and Figure 2111.1. *All masonry fireplaces shall be installed, altered and maintained in buildings in conformity with the applicable provisions of the New York City Air Pollution Control Code and no new masonry fireplaces shall be permitted except those that burn the types of fuel allowed by section 24-149.2 of such code.*

§ 50. Section 3303.5.4 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

3303.5.4 Air pollution. The provisions of the Air Pollution Control Code shall apply in order to prevent [particulate matter] *dust* from becoming airborne.

§ 51. Sections 901.3, 901.4, 901.5 and 901.6 of the New York city mechanical code, as amended by local law number 141 for the year 2013, are re-numbered 901.4, 901.5, 901.6 and 901.7, respectively.

§ 52. Chapter 9 of the New York city mechanical code is amended by adding a new section 901.3 to read as follows:

901.3 Solid fuel-burning fireplaces and appliances. All solid fuel-burning fireplaces and appliances shall be installed, altered and maintained in buildings in conformity with the applicable provisions of the New York City Air Pollution Control Code and no new solid fuel-burning fireplaces or appliances shall be permitted except those that burn the types of fuel allowed by such code.

§ 53. This local law takes effect one year after it becomes law, except that the commissioner of environmental protection may, before such effective date, take all actions necessary, including the promulgation of rules, to implement this local law on such effective date. Notwithstanding the foregoing, any amendments made to section 24-163 of the administrative code of the city of New York by a local law of the city of New York for the year 2015, as proposed in Introductory Number 230-A, shall remain in effect following the effective date of this local law.

DONOVAN J. RICHARDS, *Chairperson*; STEPHEN T. LEVIN, COSTA G. CONSTANTINIDES, RORY I. LANCMAN, ERIC A. ULRICH; Committee on Environmental Protection; April 14, 2015.

On motion of the Speaker (Council Member Mark-Viverito), 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. 555-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 senior citizen rent increase exemption program and the disability rent increase exemption program.

The Committee on Finance, to which the annexed amended proposed local law was referred on November 25, 2014 (Minutes, page 4160), respectfully

REPORTS:

I. The SCRIE and DRIE Programs

A. Background

The senior citizen rent increase exemption ("SCRIE") program protects eligible renters from certain rent increases imposed by their landlords, effectively freezing their rents at the amount the tenant pays at the time he or she enters the program.[1] The disability rent increase exemption ("DRIE") program does the same for renters with disabilities. In return, the landlords receive a tax abatement equal to the difference in the amount paid by the tenant and the total legal rent.

The current eligibility criteria for the SCRIE program are that a tenant must:

1) be 62 years of age or older;

2) be the leaseholder of a rent-controlled, rent-stabilized,[2] or Mitchell-Lama apartment, or a rent-regulated hotel unit;

3) have a total household income of no more than $50,000;[3] and

4) have a maximum rent or legal regulated rent that is more than one-third of the total household income.[4]

The current eligibility criteria for the DRIE program are that a tenant must:

1) receive State or federal disability related assistance;

2) have a total household income of no more than $50,000;

3) reside in a rent controlled or rent stabilized apartment, rent regulated hotel, or an apartment owned by a Mitchell-Lama development; and

4) spend more than one-third of their monthly income on rent.[5]

B. Legislative History

The SCRIE program was first established by New York State law in 1970, for tenants living in rent-controlled and rent-stabilized apartments. Since 2009, as a result of a local law passed by the Council,[6] the Department of Finance ("DOF") has

administered the SCRIE program with respect to these types of apartments.[7] In 1976, eligibility for the SCRIE program was extended to tenants of Mitchell-Lama apartments and the Department of Housing Preservation and Development ("HPD") has administers the program for these types of apartments.

The DRIE program was established in 2005, modeled after SCRIE, and is administered by DOF.[8]

Prior to State legislative action in 2014, in order to be eligible for SCRIE, the total household income of the eligible senior citizen could not exceed $29,000. For DRIE, the total household income could not exceed $20,412 for a single-person household or $29,484 for households comprised of two or more people. In March 2014, the State passed a law authorizing the City of New York to increase the income threshold to $50,000 per household for each program.[9] On May 14, 2014, the City Council passed a local law authorizing such an increase for SCRIE.[10] On July 24, 2014, the City Council passed a local law authorizing such an increase for DRIE.[11]

However, due to sunset language within the State's authorizing law, the income threshold for both programs is set to revert back to the $29,000 maximum on March 31, 2016 without further State action.

II. Public Inquiries Regarding SCRIE and DRIE

DOF and the City's 311 call center field tens of thousands of inquiries from the public each year about SCRIE and DRIE.[12] In addition, DOF has established a SCRIE/DRIE Customer Service Group.[13] The staff of the Customer Service Group responds to telephone inquiries forwarded by 311, email inquiries, and staffs the Walk-in Center.

A. Telephone Inquiries

According to DOF, telephone inquiries regarding SCRIE and DRIE are initially received via 311. If the 311 operator cannot answer the question, a service request is created in 311's Siebel database and the inquiry is routed to DOF for a response. When DOF receives a service request regarding an inquiry from a tenant or applicant, it responds directly to the tenant or applicant.[14] When the service request is regarding an inquiry made by a landlord or someone other than the tenant or applicant, DOF provides a response to 311 for 311 to convey to the caller. Once DOF has provided the response to 311, the caller can either call 311 back for an answer or can receive an email with the answer from 311.

B. Email Inquiries

DOF has an email address for members of the public to make email inquiries regarding SCRIE. The email address is SCRIE@finance.nyc.gov.[15] It also has one for DRIE which is DRIE@finance.nyc.gov.[16] An email inquiry is deemed resolved once the Customer Service Group emails back a response.

C. Walk-in Center

On May 1, 2014, DOF testified that it has opened a SCRIE/DRIE Walk-in Center located in Manhattan that is open from 8:30 a.m. to 4:30 p.m. five days a week. As of that date, the Walk-in Center was staffed by three members of the SCRIE/DRIE Customer Service Group, one of whom spoke Spanish, and all of whom had access to a phone interpretation service that provides interpretation services in more than 100 languages.[17]

III. DOF's December 2014 Report

On December 10, 2014, DOF issued a report containing its best efforts at generating an estimate of the number of eligible SCRIE households in the City. The report also breaks down the SCRIE eligible population by neighborhood and language and proposes a detailed outreach plan for enrolling more eligible senior citizens.[18]

Since 2012, DOF has communicated to the Committee that it has been working with other agencies to investigate reliable datasets and analytic methods for targeting tenants who could be eligible for SCRIE or DRIE, but who have not yet enrolled. With the increase in the income threshold from $29,000 to $50,000, identifying these households has become even more pressing and relevant.

DOF has stated that estimating the number of eligible tenants would be very difficult because no dataset existed that linked all of the criteria necessary to determine eligibility (i.e. age, income, amount of rent paid, and rent-regulated status of the apartment). After researching and considering several publicly accessible datasets, DOF determined that the best source to rely upon to estimate the eligible population would be survey data from the U.S. Census Bureau's New York City Housing and Vacancy Survey ("HVS").[19]

A. Eligible Population

DOF estimates that there are approximately 121,729 households in New York City eligible for SCRIE and 33,637 households eligible for DRIE.[20] For SCRIE, it is estimated that 111,412 households have less than $29,000 in income and that there are an additional 10,317 eligible households with income is between $29,000 and $50,000. This represents an increase in eligible households of approximately 9% as a result of the income threshold increase that the Council passed in May 2014.[21] For DRIE, it is estimated that 30,551 households have less than $29,000 in income and that there are an additional 3,086 eligible households with income is between $29,000 and $50,000. This represents an increase in eligible households of approximately 10% as a result of the income threshold increase.[22]

The breakdown of eligible households by borough and income category is estimated to be as follows for SCRIE and DRIE combined:

SCRIE/DRIE Total		Total Income Categories		Total
		<=29,000	>29,000 & <=50,000	
Borough	Bronx	27,505	4,075	31,580
	Brooklyn	43,348	3,358	46,706
	Manhattan	40,081	2,954	43,035
	Queens	29,836	3,016	32,852
	Staten Island	1,193	-	1,193
Total		141,963	13,403	155,366

Source: Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households

As referenced above, in order to calculate the estimated number of eligible households, DOF used the HVS data. DOF determined that the HVS was its best resource for this purpose because the survey has information on regulated housing types as well as household demographics, such as age, income level, and whether the household receives certain types of disability-related income. Additionally, the HVS breaks the City into sub-boroughs, or neighborhoods, which can then be matched at the census tract level to other datasets for additional analysis.

DOF did recognize, however, that the HVS had certain limitations. Specifically, while the overall HVS sample size was large at approximately 16,000 households, the sample size became much smaller when analyzing the data at the neighborhood level. As sample sizes get smaller, they become less reliable. Nevertheless, using the HVS data, DOF was able to put forth its best estimate of the total number of SCRIE- and DRIE-eligible households in New York City.

B. Enrollment

As of November 2014, there were 52,171 households enrolled in SCRIE and 9,148 households enrolled in DRIE. The breakdown by borough is as follows:

		Benefit Type		Total
		SCRIE	DRIE	
Borough	Bronx	9,015	2,821	11,836
	Brooklyn	14,582	2,051	16,633
	Manhattan	17,212	2,779	19,991
	Queens	10,995	1,429	12,424
	Staten Island	367	68	435
Total		52,171	9,148	61,319

Source: Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households

For SCRIE, the current enrollment number of 52,171 households means that there are potentially 69,558 eligible SCRIE households, or 57% of the eligible SCRIE population, that are not yet enrolled in the program. For DRIE, the current enrollment number of 9,148 households means that there are potentially 24,489 eligible DRIE households, or 73% of the eligible SCRIE population, that are not yet

enrolled in the program. The breakdown of eligible, but unenrolled households by borough is as follows:

		Benefit Type		Total
		SCRIE	DRIE	
Borough	Bronx	12,166	7,578	19,744
	Brooklyn	20,488	9,585	30,073
	Manhattan	18,423	4,621	23,044
	Queens	18,053	2,375	20,428
	Staten Island	428	330	758
Total		69,558	24,489	94,047

Source: Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households

		Benefit Type		Total
		SCRIE	DRIE	
Borough	Bronx	57%	73%	63%
	Brooklyn	58%	82%	64%
	Manhattan	52%	62%	54%
	Queens	62%	62%	62%
	Staten Island	54%	83%	64%
Total		57%	73%	61%

Source: Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households

For SCRIE, DOF was also able to calculate which neighborhoods had the highest number of unenrolled, but eligible, senior citizens. In descending order, they are:

- Stuyvesant Town/Turtle Bay;
- Coney Island;
- Kingsbridge Heights/Mosholu;
- Upper West Side;
- Upper East Side;
- Highbridge/S. Concourse;
- Flushing/Whitestone;
- Throgs Neck/Co-op City;
- Riverdale/Kingsbridge; and
- Kew Gardens/Woodhaven.[23]

Interestingly, these are also the top ten neighborhoods (albeit in a different order) with the highest number of non-U.S. born reported place of birth and the top ten neighborhoods with the highest number of limited English speaking households as reported on the HVS.[24]

Savings for SCRIE and DRIE Tenants

The average frozen rent of the senior citizens currently enrolled in SCRIE is $755 per month, whereas the average legal rent is $1,005. Accordingly, the average monthly benefit to each enrolled household (and the average amount of the tax abatement provided to each landlord) is $250.[25]

The average frozen rent of people with disabilities currently enrolled in DRIE is $802 per month, whereas the average legal rent is $990. Accordingly, the average monthly benefit to each enrolled household (and the average amount of the tax abatement provided to each landlord) is $189.[26]

C. DOF's SCRIE Outreach Plan

Given the high number of eligible, unenrolled households DOF has estimated in its report, it is clear that DOF must improve and increase its outreach efforts to reach those households. In its report, DOF recognizes this challenge and states that it has developed new outreach initiatives for SCRIE and DRIE, respectively. For SCRIE, DOF intends to do the following to strengthen the effectiveness of its outreach initiatives:

- focus outreach efforts in the neighborhoods with the highest number of unenrolled, eligible senior citizens as identified by the newly created dataset;
- partner with the City Council Members and other elected officials; and
- partner with other agencies to distribute SCRIE information, including DFTA, the Human Resources Administration, the Department of Parks and Recreation, the Department of Health and Mental Hygiene, the Health and Hospitals Corporation, the Mayor's Office for Immigrant Affairs, the City's public libraries, and the Mayor's Community Affairs Unit.[27]

DOF also proposes employing several new outreach tools and initiatives, including:

- rebranding the program as the "NYC Rent Freeze Program" to catch people's attention;
- distributing newly created SCRIE materials, such as flyers, posters, and guides, which will be translated into Bengali, Chinese, Haitian Creole, Korean, Russian, and Spanish;[28]
- rebuilding the SCRIE portion of DOF's website to be more user-friendly and using social media to reach more people;
- working with community partners to extend DOF's outreach;
- developing a "train-the-trainer" video to give organizations and groups that are in regular contact with senior citizens step-by-step instructions on how to assist people in filling out applications. This video will be posted on DOF's website;
- publishing advertisements and notices in ethnic media; and

- working with the Mayor's office to send a mailing to all potentially eligible households.[29]

For DRIE, DOF recognized that it had not focused on outreach as much as it had with SCRIE and that it needs to foster strong working relationships with new partners to help reach the DRIE-eligible population. With the Mayor's Office of People with Disabilities, DOF intends to:

- coordinate with Access-A-Ride to message about DRIE;
- work with other City agencies to distribute information about DRIE to their mailing lists;
- work with local private universities and hospitals to distribute DRIE materials;
- work with various organizations, service providers, and service coordination agencies that work with people with disabilities such as the Visiting Nurse Association, Independent Living Centers, Independent Care System, Concepts of Independence, and Wheels of Progress;
- create a media campaign to feature stories about DRIE in publications that cater to people with disabilities such as AARP, Able Newspaper, the MS Society, and the United Spinal Association (New Mobility Magazine);
- produce an informational video on the screens in wheelchair accessible New York City taxis;
- create the same train-the-trainer video for SCRIE that gives step-by-step instructions on how to fill out the SCRIE/DRIE applications; and
- conduct semi-annual train-the-trainer sessions either in person or via teleconference to help organizations sign people up for DRIE.

IV. December 15, 2014 Hearing

At a hearing on December 15, 2014, the Committee considered Int. 555, a local law to amend the administrative code of the city of New York, in relation to the senior citizen rent increase exemption. At the hearing, representatives from DOF testified, as did members of the public.

Int. 555 only related to SCRIE and would have required DOF to:

- create an ombudsperson position to receive and address any inquiries made by landlords or tenants regarding SCRIE, as well as make recommendations to the Commissioner about DOF's administration of SCRIE, and establish training about SCRIE for DOF staff;
- set up a dedicated email address to receive SCRIE inquiries and post that information, as well as the name and telephone number of the ombudsperson, on DOF's website and include it in all written communication to landlords and tenants;
- provide the Council with an annual report detailing the number and nature of the inquiries received by the ombudsperson and any recommendations made by the ombudsperson to the Commissioner; and

- include the SCRIE eligibility criteria on all written communications to tenants participating or applying to participate in the SCRIE program.

V. Proposed Int. 555-A, A Local Law to amend the administrative code of the city of New York, in relation to the senior citizen rent increase exemption and the disability rent increase exemption program

After the hearing, and after negotiations with the Administration, the legislation was amended. The amended legislation, Proposed Intro. 555-A, was expanded to include DRIE and would do the following:

- Require DOF to designate separate SCRIE and DRIE ombudspersons within DOF. The ombudspersons would be responsible for investigating and responding to complaints about the programs, as well as making recommendations to the commissioner about administration of the programs;
- Require DOF to create a dedicated SCRIE email address and a dedicated DRIE email address, or links to directly contact each program through DOF's website. DOF would also be required to post a statement on a page of its website dedicated solely to the programs that inquiries can be made via 311 or through DOF's website;
- Require DOF to put such statement, and the name, title, and electronic contact information of the relevant ombudsperson, on all SCRIE or DRIE applications and certain notices;
- Require DOF to provide the Council, and post on its website, an annual report detailing the number and nature of inquiries regarding SCRIE and DRIE received by DOF and 311; the number, nature, and resolution of complaints received by the ombudspersons; and any recommendations made by the ombudspersons to the commissioner;
- Require DOF to include the relevant eligibility criteria for SCRIE or DRIE on certain applications and notices; and
- Every three years, DOF would be required to provide the Council, and post on its website, a report on the population of tenants in the City eligible to participate in SCRIE or DRIE, similar to the report published in December 2014. The report would provide the numbers of estimate eligible tenants by enrollment status, borough, and neighborhood, as well detail DOF's outreach efforts for both SCRIE and DRIE.

The Committee on Finance will consider Proposed Intro. 555-A at today's hearing and, upon successful vote by the Committee, the legislation will be submitted to the full Council for a vote on April 16, 2015.

[1] See Chapter 689 of the Laws of 1972.
[2] See Chapters 3 and 4 of Title 26 of the New York City Administrative Code. Rent control generally applies to residential buildings constructed before February 1947 in municipalities for which an end to the postwar rental housing emergency has not been declared. For an apartment to be rent-controlled, the tenant must generally have been living there continuously since before July 1, 1971 or for less time as a

successor to a rent-controlled tenant. When a rent-controlled apartment becomes vacant, it either becomes rent-stabilized or is removed from regulation. Rent-stabilized apartments are generally those apartments in buildings of six or more units built between February 1, 1947 and January 1, 1974. Similar to rent control, stabilization provides other protections to tenants besides regulation of rental amounts. Tenants are entitled to receive required services, to have their leases renewed, and not to be evicted except on grounds allowed by law. Leases may be entered into and renewed for one- or two-year terms, at the tenant's choice.

[3] The total household income includes the income of every person who lives in the household less deductions for federal taxes paid, State taxes paid, local income taxes paid, Social Security taxes paid, and Medicare taxes paid.

[4] See §467-c of the New York Real Property Tax Law and §§26-405m, 26-406, and 26-509 of the New York City
Administrative Code.

[5] See New York City Administrative Code §§ 26-405(m), 26-509, 26-601, and 26-617..

[6] See Local Law 44 of 2009.

[7] Prior to 2009, the Department of Aging ("DFTA") administered the program for these apartments.

[8] Int. 667-2005, L.L. 2005/076.

[9] See Chapter 55 of the Laws of 2014.

[10] See Local Law 19 of 2014.

[11] See Local Law 39 of 2014.

[12] See Local Law 47 Reports, available at:
http://www.nyc.gov/html/ops/ll47/html/ll47_reports/ll47_reports.shtml (last visited December 9, 2014).

[13] See Transcript of May 1, 2014 Finance Committee and Aging Committee Joint Hearing, at 16.

[14] See id.

[15] See NYC Rent Freeze Program: A Guide for Tenants, available at:
http://www1.nyc.gov/assets/finance/downloads/pdf/brochures/scriedriebrochure.pdf (last accessed on April 15, 2015).

[16] See id.

[17] See Transcript, supra fn. 10, at 16-17.

[18] See id.

[19] See NYC Department of Finance Report on the New York City Rent Freeze Program: Identifying and Enrolling Eligible Households, at 11-12, available at:
http://www.nyc.gov/html/mopd/downloads/pdf/scrie_drie_report.pdf (last accessed December 11, 2014).

[20] See id. at 4.

[21] See id. at 14.

[22] See id. at 14.

[23] See id. at 21.

[24] See id. at 25-26.

[25] See Report on the New York City Rent Freeze, supra fn. 19, at 7.

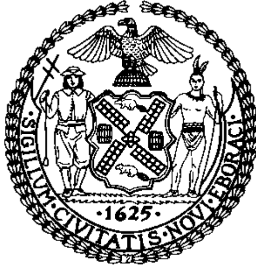
[26] See Report on the New York City Rent Freeze, supra fn. 19, at 7.

[27] See id. at 16.

[28] According to the new dataset based on the HVS, the top most spoken languages among SCRIE-eligible households are Spanish, Russian, Chinese, and Korean. See id. at 23.

[29] See id. at 17-18.

(The following is the text of the Fiscal Impact Statement for Int. No. 555-A:)



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 555-A

COMMITTEE: Finance

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the senior citizen rent increase exemption program and the disability rent increase exemption program.

SPONSOR(S): Council Members Ferreras, Cohen, Arroyo, Dickens, King, Koo, Koslowitz, Williams, Vacca, Rodriguez, and Mendez.

SUMMARY OF LEGISLATION: This legislation would amend the City's administrative code to require the Commissioner of the New York City Department of Finance (DOF) to designate an employee to serve as a Senior Citizen Rent Increase Exemption (SCRIE) ombudsperson and a different person to serve as a Disability Rent Increase Exemption (DRIE) program ombudsperson.

The duties of each ombudsperson would include investigating and responding to complaints regarding SCRIE and DRIE, making recommendations to the Commissioner on the administration of each program, and establishing procedures for training department staff regarding tenant eligibility for the exemption programs. In addition, this legislation would require DOF to establish a dedicated email address to receive SCRIE and DRIE inquiries, or links to directly contact each program through the DOF website. DOF would also be required to post a statement that inquiries about SCRIE and DRIE can be made through 311 or through DOF's website. This information must also be included on all SCRIE and DRIE applications and certain notices, along with the ombudsperson's name, title, and contact information.

In addition, the legislation would require DOF to submit an annual report to the Council detailing the number of SCRIE and DRIE inquiries received by DOF and 311, the number and nature of complaints received by each ombudsperson, as well as any recommendations on the administration of each program to the Commissioner. Additionally, every three years, DOF would submit to the Council a report on the estimated population of tenants eligible to receive SCRIE and DRIE benefits; this information will include enrollment status by borough and neighborhood, and outline outreach efforts targeted at these populations.

Lastly, the legislation would require DOF to include the relevant SCRIE or DRIE eligibility criteria on certain applications and notices.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2016

FISCAL IMPACT STATEMENT:

	Effective FY15	FY Succeeding Effective FY16	Full Fiscal Impact FY16
Revenues	$0	$0	$0
Expenditures	$0*	$0*	$0*
Net	$0	$0	$0

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

IMPACT ON EXPENDITURES: It is anticipated that this legislation would have no impact on expenditures.

*Although the legislation does not mandate that DOF hire new staff to meet the provisions of this bill, the agency has informed the Council that it is considering adding an additional staff member to serve as the DRIE ombudsperson. The total annual cost of this one additional staff member is estimated to be $69,533, including fringe benefits. This estimate assumes that DOF will hire a community associate to perform a combination of clerical and administrative support, and outreach to tenants and landlords.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs
New York City Department of Finance

ESTIMATE PREPARED BY: Sarah Gastelum, Legislative Financial Analyst

ESTIMATE REVIEWED BY: Rebecca Chasan, Assistant Counsel**,** New York City Council Finance Division

Nathan Toth, Deputy Director, New York City Council Finance Division

Tanisha Edwards, Chief, Counsel**,** New York City Council Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full council on November 25, 2014 as Intro. No. 555 and referred to the Committee on Finance. A hearing was held on December 15, 2014 by the Committee and the bill was laid over. The legislation was subsequently amended. The Committee on Finance will vote on the amended legislation, Proposed Intro. No. 555-A, on April 16, 2015. Upon successful vote by the Committee, Proposed Intro. No. 555-A will be submitted to the full Council for a vote on April 16, 2015.

DATE PREPARED: April 15, 2015

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 555-A:)

Int. No. 555-A

A Local Law to amend the administrative code of the city of New York, in relation to the senior citizen rent increase exemption program and the disability rent increase exemption program

By Council Members Ferreras, Cohen, Arroyo, Dickens, King, Koo, Koslowitz, Williams, Vacca, Rodriguez, Mendez, Chin, Van Bramer, Miller, Rosenthal, Dromm, Kallos, Mealy and Vallone.

Be it enacted by the Council as follows:

Section 1. The administrative code of the city of New York is amended by adding a new section 11-137 to read as follows:

§ 11-137 Rent increase exemption programs: ombudspersons, notices and report. a. Ombudspersons. (1) The commissioner of finance shall designate an employee of the department of finance to serve as the ombudsperson for the senior citizen rent increase exemption program set forth in title twenty-six of this code and designate a different employee of the department of finance to serve as the ombudsperson for the disability rent increase exemption program set forth in title

twenty-six of this code. The duties of each such ombudsperson shall include, but need not be limited to:

(i) establishing a system for such ombudspersons to receive complaints with respect to each such rent increase exemption program;

(ii) investigating and responding to complaints received pursuant to subparagraph (i) of this paragraph; and

(iii) making recommendations to the commissioner of finance regarding the administration of each such rent increase exemption program, which may include recommendations for training appropriate department of finance staff members.

(2) The commissioner of finance shall establish a dedicated email address for the senior citizen rent increase exemption program and a dedicated email address for the disability rent increase exemption program, or links to directly contact each such program through the department of finance's website, to receive written inquiries regarding such rent increase exemption programs. A statement that inquiries may be made to the 311 citizen service center or submitted electronically through the website of the department of finance shall be posted on a page of such website that is dedicated to these rent increase exemption programs. Such statement, along with the name and title of the ombudsperson for the relevant rent increase exemption program, and the email address for, or a link to directly contact, such ombudsperson through the department of finance's website shall also be included on any notice issued by the department of finance pertaining to a rent increase exemption program where such notice is related to:

(i) the denial, or the appeal of a denial of, such application;

(ii) the termination of benefits due to the death of a tenant sent to the household or the landlord;

(iii) the revocation of benefits sent to the tenant or the landlord;

(iv) the denial of a tenant's application for benefit takeover; and

(v) any other document deemed appropriate by the department of finance.

(3) No later than October first of each year, the department of finance shall submit a report to the council for the prior fiscal year, indicating:

(i) the number and nature of inquiries received by the department of finance and the 311 citizen service center regarding the rent increase exemption programs;

(ii) the number, nature, and resolution of comments and complaints received by the ombudspersons designated pursuant to paragraph one of subdivision a of this section regarding the rent increase exemption programs; and

(iii) any recommendations made by any such ombudsperson to the commissioner of finance regarding the administration of such rent increase exemption programs.

b. Notice of Eligibility Requirements. The relevant eligibility criteria for the senior citizen rent increase exemption program or the disability rent increase exemption program shall be included on the following documents issued by the department of finance pertaining to such rent increase exemption program:

(1) the application or renewal application for the program;

(2) any notice related to the termination of benefits due to the death of a tenant sent to the household or the landlord;

(3) a tenant renewal reminder notice; and

(4) any other document deemed appropriate by the department of finance.

c. Report on Eligibility. No later than December thirty-first, two thousand eighteen, and every third December thirty-first thereafter, the department of finance shall prepare a report on the population of tenants estimated to be eligible for participation in such rent increase exemption programs. Such report shall be submitted to the council and posted on the website of the department of finance. Such report shall include:

(1) the total number of tenants estimated to be eligible for the rent increase exemption programs, disaggregated by program, enrollment status, borough, and neighborhood;

(2) for tenants enrolled in the senior citizen rent increase exemption program and in the disability rent increase exemption program, the average and median:

(i) number of years receiving the rent increase exemption;

(ii) household size;

(iii) age;

(iv) annual household income;

(v) amount paid in rent by the tenant; and

(vi) amount of the tax abatement credit received by the landlord on behalf of a tenant;

(3) a description of the department of finance's efforts to increase enrollment in each rent increase exemption program; and

(4) a comparison of the data contained in each such report with the data contained in the most recent prior report issued pursuant to this subdivision.

§ 2. This local law shall take effect 90 days after it shall have become a law.

JULISSA FERRERAS, *Chairperson*; JAMES VAN BRAMER, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, COREY D. JOHNSON, MARK LEVINE, I. DANEEK MILLER, HELEN K. ROSENTHAL, VINCENT M. IGNIZIO; Committee on Finance, April 16, 2015. *Other Council Members Attending: Cohen.*

On motion of the Speaker (Council Member Mark-Viverito), 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. 681

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 Meatpacking Area business improvement district.

The Committee on Finance, to which the annexed proposed local law was referred on February 26, 2015 (Minutes, page 614), respectfully

REPORTS:

ANALYSIS:

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

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 adopted Resolution 591 on February 26, 2015, which set the hearing date to consider a local law that would establish the Meatpacking Area BID (the "proposed BID") for March 11, 2015.

Prior to the Council's action, the Community Boards for the district in which the proposed BID is located -- Community Boards 2 and 4 of Manhattan -- voted to approve the BID's District Plan (the "Plan") on November 21, 2014 and December 8, 2014, respectively. The City Planning Commission ("CPC") reviewed the Plan and held a public hearing on the Plan on December 17, 2014. The CPC approved a resolution on January 21, 2015 (Calendar No. 12), which certified the CPC's unqualified approval of the Plan.

Resolution 591 set the date for the hearing and directed that all notice provisions contained in the law be complied with. Therefore, the Department of Small Business Services ("SBS") was directed to publish the Resolution or its summary in the City Record not less than ten nor more than thirty days before the public hearing and the Meatpacking Area BID Steering Committee was directed to mail the Resolution or its summary to each owner of real property within the proposed BID, to such other persons as are registered with the City to receive tax bills for property within the proposed BID and to occupants of each building within the proposed BID, also not less than 10 nor more than 30 days before the public hearing.

The public hearing to consider both the Plan itself and the enacting legislation, according to the provisions of the law, was 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 the 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 proposed BID 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 proposed BID's boundaries benefit from the establishment of the district, except as otherwise provided by the law?;

3. Is all real property benefited by the proposed BID included within the district?; and

4. Is the establishment of the proposed BID 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 the proposed BID 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.

MARCH 11, 2015 HEARING

On March 11, 2015, as set forth in Resolution 591, the Finance Committee held a public hearing to consider Intro. No. 681 that would establish the Meatpacking Area BID. Representatives of SBS, the Meat Packing District Improvement Association and Chelsea Improvement Company, and several businesses affected by the establishment of the proposed BID testified in support of the proposed BID's establishment. As required by law, the hearing closed without a vote and the 30-day period for property owners to file objections to the Plan with the Office of the City Clerk began. Copies of objection forms were made available at the Office of the City Clerk which is located at 1 Centre Street in Manhattan.

MEATPACKING AREA BID DETAILS

The proposed Meatpacking Area BID is located in the borough of Manhattan in the northernmost part of the West Village and the southernmost part of lower Chelsea. It is generally bounded by Horatio Street to the South, West 17th Street to the North, 10th Avenue to the West, and 8th Avenue to the East. The majority of the District's land use is commercial, but there are also hotels, residences, government or not-for-profit properties, and public plazas.

The District is comprised of 649 parcels, which include 154 commercial lots, 472 residential lots (primarily individual condominiums), 5 vacant lots, 1 parking lot

and 17 government or not-for-profit properties and is located in Manhattan Community Boards 2 and 4.

The District will be managed by the Meatpacking Area District Management Association, Inc. Services to be provided within the District include: sanitation, landscape maintenance, beautification, public safety, economic development initiatives, business and community advocacy, and general administration. The budget for the first year of operation is $1.6 million. In subsequent years the District's budget may rise to $3.2 million as additional development occurs in the district.

PROGRAMS AND SERVICES	**$1,233,500**
Sanitation	$265,000
Beautification & Landscape Maintenance	$145,000
Public Safety	$378,500
Capital Maintenance & Reserve	$145,000
Furniture Maintenance & Supplies	$100,000
Economic Development	$200,000
ADVOCACY, GENERAL & ADMINISTRATION	**$366,500**
TOTAL FIRST YEAR BUDGET	**$1,600,000**

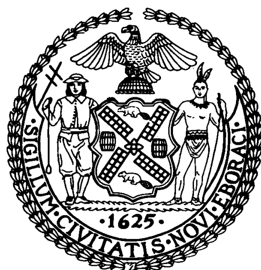
All properties within the District in whole or in part devoted to commercial use, including vacant parcels and parking lots, will be assessed at a rate of no more than $0.24 per commercial square foot. At a rate of $0.24 per commercial square foot, the median annual assessment would be approximately $1,920, the minimum assessment would be approximately $120, and the highest assessment would be $518,878. Government and not-for-profit owned property are exempt from assessment. Residential properties will be assessed $1 per year.

APRIL 16, 2015 HEARING

The objection period for the establishment of the Meatpacking Area BID closed on April 10, 2015 at 5:00 p.m. According to the City Clerk, out of the 524 property owners located in the proposed BID, one filed a valid objection to the establishment of the BID.

Since the number of objections required to prevent the creation of the BID have not been filed with the City Clerk, at today's hearing, if the Committee and the full Council finds in the affirmative on the four questions outlined on pages 3 and 4 of this report, then the legislation can be adopted, and the BID will be established.

(The following is the text of the Fiscal Impact Statement for Int. No. 681:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

INTRO. NO: 681
COMMITTEE: Finance

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

Sponsors: Council Members Ferreras, Johnson and Rose (by request of the Mayor)

SUMMARY OF LEGISLATION: This legislation would amend Chapter 5 of title 25 of the administrative code of the city of New York by adding a new section 25-488 to establish a business improvement district ("BID") in the borough of Manhattan to be known as the Meatpacking Area 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 that the New York State Comptroller conduct a review to determine that the relevant tax and debt limitations will not be exceeded by the establishment of the District.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: 2016

FISCAL IMPACT STATEMENT:

	Effective FY15	FY Succeeding Effective FY16	Full Fiscal Impact FY16
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 administrative code of the city of New York, proceeds authorized to be assessed by the District are collected by the City on behalf of the District. None of these proceeds are those of the City and they may not be used for any purpose other than those set forth in the BID's District Plan. The Meatpacking Area BID will be funded through a self-assessment by property owners within the district. The anticipated revenues from this self-assessment in Fiscal 2015 will be $1,600,000. 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 a maximum annual expenditure thereafter to operate the BID of $32,000,000.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

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

ESTIMATE PREPARED BY: Rebecca Chasan, Assistant Counsel, Finance Division

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

LEGISLATIVE HISTORY: This legislation was introduced as Intro. No. 681 by the Council on February 26, 2015 and referred to the Committee on Finance. A hearing was held by the Committee on March 11, 2015 and the legislation was laid over to allow for the statutory 30-day objection period. Intro. No. 681 will be considered again by the Committee on Finance on April 16, 2015 and, upon a successful vote by the Committee, Intro. No. 681 will be submitted to the full Council for a vote on April 16, 2015.

DATE PREPARED: April 13, 2015

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 681:)

Int. No. 681

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

By Council Members Ferreras, Johnson and Rose (by request of the Mayor).

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 25-488 to read as follows:

§ 25-488 Meatpacking Area 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 Meatpacking Area 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 Meatpacking Area 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.

JULISSA FERRERAS, *Chairperson*; JAMES VAN BRAMER, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, COREY D. JOHNSON, MARK LEVINE, I. DANEEK MILLER, HELEN K. ROSENTHAL, VINCENT M. IGNIZIO; Committee on Finance, April 16, 2015. *Other Council Members Attending: Cohen.*

On motion of the Speaker (Council Member Mark-Viverito), 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. 727

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 assessment of real property damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve.

The Committee on Finance, to which the annexed proposed local law was referred on March 31, 2015 (Minutes, page 983), respectfully

REPORTS:

The New York State Real Property Tax Law provides limits on how fast the assessed value of a property in New York City can increase over time, providing some protection against a sharp rise in a tax bill as the result of a rapidly increasing property value. The limits apply to increases to property values as a result of market forces, but do not apply when the value increases due to physical changes, such as construction or repair.

As a result of these limits, a number of properties severely damaged by Superstorm Sandy had assessments below their target assessment levels prior to the storm, though eventually the assessments would have grown to the target levels. As these properties are repaired from the damage caused by the storm, the value increases due to the repairs will not be capped and, as a result, a number of properties that were severely damaged by Superstorm Sandy could see sizeable and immediate increases in their assessments and property tax bills. While some of these increases would have happened had the storm and associated reconstruction not happened, rather than seeing the increase all in one year, the limit on assessment growth would have slowed the growth to a more manageable level.

In 2014, the State passed legislation, Chapter 25 of the Laws of 2014, authorizing New York City to provide a property tax abatement for the City's Fiscal Year 2015 that kept the tax bills of properties that were repaired at a level no higher than the tax bill owed prior to the storm. However, this was a short-term solution as the abatement was authorized for one year only.

On February 13, 2015, the State Senate introduced bill number S.3688-B and on March 2, 2015, the State Assembly introduced bill number A.5620-B. These bills would provide a long-term solution by allowing the City Council to adopt a local law that would limit any increases to assessed value caused by the reconstruction of Superstorm Sandy-damaged property so that a property's assessment would not be any higher than had the storm not happened. In situations where a property is rebuilt to a larger size than prior to the storm, the bills would allow for a further increase above the pre-storm assessment that is commensurate with the increase in square footage. Reflecting the new resiliency standards along the damaged areas, increases in square footage cause by moving improvements above grade to prevent or mitigate flooding would not count towards any square footage increase.

In short, the bills would ensure that property owners who rebuild properties severely damaged by Superstorm Sandy would not be penalized for rebuilding and that they would see the same tax bill they would have seen had the storm never occurred.

INT. 727

This legislation constitutes the local law authorized by S.3688-B and A.5620-B and would add a new section 11-240.1 to the New York City Administrative Code allowing the City to limit increases in the assessed value of certain class one, class

two and class four properties. The properties that would be subject to the limitations in this section must satisfy the following conditions:

1. The Department of Finance reduced the assessed value of the building on the property on the assessment roll completed in 2013 from the assessed value on the assessment roll completed in 2012 as a result of damage caused by Superstorm Sandy; and

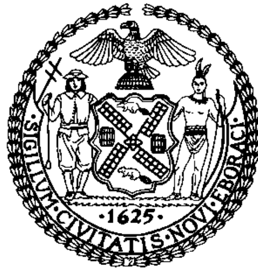
2. The Department of Finance increased or will increase the assessed value of the building on the property as a result of the repair or reconstruction of damage caused by Superstorm Sandy on any assessment roll completed from 2014 through 2020.

For properties that satisfy these conditions and have not performed repairs or reconstruction as of the assessment roll completed in 2015, the physical increase to their assessed value as a result of repairs or reconstruction that will be performed would be limited to the amount of the physical decrease reflected on the assessment roll completed in 2013. Any increase in excess of the amount of the physical decrease reflected on the assessment roll completed in 2013 would be treated as an equalization (non-physical) increase and subject to the limitations for equalization increases prescribed the Real Property Tax Law. The assessed values of the properties that satisfy the requisite conditions would not be higher than they would have been but for Superstorm Sandy. For class four and larger class two properties subject to transitional assessments, the limitation on physical increases would apply to the lower of the actual assessed value or the transitional assessed value.

For properties that satisfy these conditions and have already performed repairs or reconstruction that constitute a physical increase reflected on an assessment roll completed as of 2015, the assessed value as it appeared on the assessment roll completed in 2015 would be recalculated as if this local law had been in effect. The Department of Finance is authorized to correct the 2015/2016 assessed value in accordance with this legislation within ninety days of the effective date of the local law. Subsequent physical increases reflected on an assessment roll completed from 2016 through 2020 would also be subject to the limitations described in the preceding paragraph. To the extent that the square footage used to determine the assessed value of the building on the property on a given assessment roll exceeds that reflected on the assessment roll completed in 2012, the legislation provides that the Department of Finance would recalculate the limitation on physical increases by multiplying the limitation by the percentage of the excess square footage of the building.

This legislation would take effect on the same date as a Chapter of the Laws of 2015 amending the Real Property Tax Law relating to the assessment of real property damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve in a city having a population of one million or more, as proposed in legislative bill numbers A. 5620-B/S. 3688-B, takes effect.

(The following is the text of the Fiscal Impact Statement for Int. No. 727:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

INTRO. NO: 727

COMMITTEE: Finance

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the assessment of real property damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve.

SPONSOR(S): Ignizio, Ferreras, Matteo, Constantinides, Eugene, (in conjunction with the Mayor)

SUMMARY OF LEGISLATION: Under State law, the assessments for all residential and most commercial property (those in Classes 1, 2, and 4) are subject to protections that limit how fast they can grow. However, these limits only apply to changes in assessment due to economic forces; changes caused by physical improvements are not subject to these limits. As a result, properties that saw physical damage due to Superstorm Sandy could see large increases in their assessments when they are repaired. As the protections for small residential properties are stronger, this problem is especially acute for those properties. Therefore, in 2014, the City and State adopted legislation providing an abatement of taxes above the level charged prior the storm. However, this abatement represented a short-term fix as it was only authorized for one year (Fiscal 2015).

Intro. No. 727 would provide a long-term solution by allowing the City to limit any increases to assessed value caused by the reconstruction of Superstorm Sandy-damaged property so that a property's assessment would not be any higher than had the storm not happened. In situations where a property is rebuilt to a larger size than prior to the storm, the bill would allow for a further increase above the pre-storm assessment that is commensurate with the increase in square footage. Reflecting the new resiliency standards along the damaged areas, increases in square footage cause by moving improvements above grade to prevent or mitigate flooding would not count towards any square footage increase. The new limitations would also apply to assessments of properties that have already rebuilt.

In short, this bill would ensure that property owners who rebuild properties severely damaged by Superstorm Sandy will not be penalized for rebuilding and that they would see the same tax bill they would have seen had the storm never occurred.

EFFECTIVE DATE: This act would take effect on the same date as a chapter of the laws of 2015 amending the real property tax law relating to the assessment of real property damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve in a city having a population of one million or more, as proposed in legislative bill numbers A. 5620-B/S. 3688-B, takes effect.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2016

FISCAL IMPACT STATEMENT:

	Effective FY15	FY Succeeding Effective FY16	Full Fiscal Impact FY16
Revenues	$0	($2,150,000)	($2,150,000)
Expenditures	$0	$0	$0
Net	$0	($2,150,000)	($2,150,000)

IMPACT ON REVENUES: While the legislation is expected to take effect in Fiscal 2015, the legislation would only impact property tax bills from Fiscal 2016 onwards. As properties damaged by Superstorm Sandy are rebuilt, assessment growth would be limited for those properties, which would have a small negative impact on revenues. In years subsequent to rebuilding, assessments on the properties would rise, reducing the cost of the legislation. It should be noted that while some properties have already rebuilt, a number of them still have not and it is not clear how many will actually rebuild. Therefore, the true cost of the proposed legislation is dependent on if and when these properties rebuild. The figure provided here is based on a preliminary analysis of which properties, as a result of this legislation, would see assessments reductions from the preliminary assessment roll released on January 15, 2015.

IMPACT ON EXPENDITURES: The legislation simply adjusts the method in which the City calculates the assessments, and therefore no impact on expenditures is anticipated.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Funds

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

ESTIMATE PREPARED BY: Emre Edev, Unit Head

ESTIMATE REVIEWED BY: Rebecca Chasan, Assistant Counsel
Ray Majewski, Chief Economist/Deputy Director

Tanisha Edwards, Chief Counsel

LEGISLATIVE HISTORY: Intro. No. 727 was introduced by the Council on March 31, 2015 and referred to the Committee on Finance. It will be considered by the Committee on April 16, 2015 and upon a successful vote, will be submitted to the full Council for a vote April 16, 2015.

DATE PREPARED: April 15, 2015

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 727:)

Int. No. 727

By Council Members Ignizio, Ferreras, Matteo, Constantinides, Eugene, Gentile, Rosenthal, Rodriguez and Ulrich (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to the assessment of real property damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve.

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 11 of the administrative code of the city of New York is amended by adding a new section 11-240.1 to read as follows:

§ 11-240.1 Assessment of real property damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve. 1. Generally. Notwithstanding any provision of any general, special or local law to the contrary, the commissioner of finance shall assess affected real property as defined in subdivision three of this section subject to the limitations provided in this section.

2. Definitions. As used in this section:

a. "Actual assessed value" means the assessed value of real property prior to the calculation of any transitional assessed value, and which is not reduced by any exemption from real property taxes.

b. "Aggregate physical increase" means the sum of physical increases for assessment rolls completed from two thousand fourteen through two thousand twenty.

c. "Annual tax" means the amount of real property tax that is imposed on a property for a fiscal year, determined after reduction for any amount from which the property is exempt, or which is abated, pursuant to applicable law.

d. "Annual tax attributable to improvements" means the annual tax, multiplied by a fraction, the numerator of which is equal to the assessed value attributable to

improvements on the property for the fiscal year, and the denominator of which is the total assessed value of the property for such fiscal year.

e. "Assessed value" means the assessed value of real property that was used to determine the annual tax, and which is not reduced by any exemption from real property taxes. For real property classified as class two or class four real property, as defined in subdivision one of section eighteen hundred two of the real property tax law to which subdivision three of section eighteen hundred five of the real property tax law applies, unless otherwise provided, the assessed value is the lower of the actual assessed value and transitional assessed value.

f. "Assessed value attributable to improvements" means that portion of the assessed value that was used to determine the annual tax attributable to improvements, and which is not reduced by any exemption from real property taxes.

g. "Commissioner of finance" means the commissioner of finance of the city of New York, or his or her designee.

h. "Department of finance" means the department of finance of the city of New York.

i. "Improvements" means buildings and other articles and structures, substructures and superstructures erected upon, under or above the land, or affixed thereto, including bridges and wharves and piers and the value of the right to collect wharfage, cranage or dockage thereon.

j. "Physical decrease" means the decrease in assessed value from the assessed value on the preceding assessment roll as a result of destruction of property caused by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve, such decrease to which subdivision five of section eighteen hundred five of the real property tax law applies.

k. "Physical increase" means the increase in assessed value from the assessed value on the preceding assessment roll as a result of an addition to or improvement of existing real property as provided in subdivision five of section eighteen hundred five of the real property tax law, for the purpose of reconstruction or repair in connection with the damage caused by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve, such increase to which subdivision five of section eighteen hundred five of the real property tax law applies subject to the provisions of this section.

l. "Total square footage of the improvements on the property" means, with respect to an assessment roll, the square footage used by the department of finance in determining the assessed value attributable to improvements on the real property for such assessment roll.

m. "Transitional assessed value" is the transition assessment calculated pursuant to subdivision three of section eighteen hundred five of the real property tax law, and which is not reduced by any exemption from real property taxes.

3. Affected real property. For purposes of this section, "affected real property" means any tax lot that contained, on the applicable taxable status date, class one, class two or class four real property as such class of real property is defined in subdivision one of section eighteen hundred two of the real property tax law, as to which:

a. the department of finance reduced the assessed value attributable to improvements on the property for the assessment roll completed in two thousand thirteen from the assessed value attributable to improvements on the property for the assessment roll completed in two thousand twelve as a result of damage caused by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve; and

b. the department of finance increased the assessed value attributable to improvements on the property by means of a physical increase for an assessment roll completed from two thousand fourteen through two thousand twenty.

4. Limitation on increases of assessed value. Notwithstanding subdivision five of section eighteen hundred five of the real property tax law and any other provision to the contrary, increases in the assessed value of affected real property shall be limited in the manner specified in this subdivision.

a. Except as provided in paragraph c of this subdivision, for affected real property for which the assessed values on the assessment rolls completed in two thousand fourteen and two thousand fifteen do not reflect a physical increase, the amount of the aggregate physical increase shall not exceed the amount of the physical decrease reflected in the assessed value on the assessment roll completed in two thousand thirteen. Any increase in assessed value from the preceding year in excess of the physical increase reflected in the current assessed value, such physical increase limited as provided in the preceding sentence, shall be subject to the limitations on increases provided in subdivisions one, two and three of section eighteen hundred five of the real property tax law. In no event shall the assessed value of the affected real property appearing on an assessment roll completed for any given year from two thousand fifteen to two thousand twenty exceed what the assessed value would have been that year but for any physical decreases or physical increases reflected in the assessed values on the assessment rolls completed from two thousand thirteen to two thousand twenty.

b. For affected real property for which the assessed value on the assessment roll completed in two thousand fourteen or two thousand fifteen reflects a physical increase, the assessed value as it appeared on the assessment roll completed in two thousand fifteen shall be recalculated as if the limitation in paragraph a of this subdivision had been in effect for the assessment rolls completed in two thousand fourteen and two thousand fifteen. The recalculation of the assessed value that appeared on the assessment roll completed in two thousand fifteen shall not affect the amount of taxes that were due and payable for the fiscal year beginning on the first of July, two thousand fourteen. The assessed value on the assessment rolls completed for each of the years from two thousand sixteen to two thousand twenty shall be subject to the limitation on increases provided in paragraph a of this subdivision. Notwithstanding section fifteen hundred twelve of the charter and any other provision to the contrary, the commissioner of finance is authorized to correct as provided in this paragraph the assessed value of affected real property appearing on the assessment roll completed in two thousand fifteen. Such correction shall be made no later than ninety days after the effective date of a local law adopted in accordance with this section.

c. Notwithstanding paragraphs a and b of this subdivision, in the event that the total square footage of the improvements on the affected real property appearing on any assessment roll completed from two thousand fourteen to two thousand twenty exceeds the total square footage of the improvements on the property appearing on the assessment roll completed in two thousand twelve, the amount of the aggregate physical increase shall not exceed the amount computed by multiplying the sum of the physical increases as calculated subject to this subdivision by a fraction, the numerator of which is equal to the amount of the total square footage of the improvements on the property for the current assessment roll, and the denominator of which is equal to the amount of the total square footage of the improvements on the property for the assessment roll completed in two thousand twelve. For purposes of this paragraph, if improvements on the property located below grade were not included in the total square footage of the improvements on the property for the assessment roll completed in two thousand twelve, such improvements shall not be included in the total square footage for subsequent assessment rolls if the improvements were moved above grade or other building elevations were constructed on the property to prevent or mitigate flooding as part of reconstruction or repair in connection with the damage caused by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve.

5. Rulemaking. The commissioner of finance shall be authorized to promulgate rules necessary to effectuate the purposes of this section.

§ 2. This act shall take effect on the same date as a chapter of the laws of 2015 amending the real property tax law relating to the assessment of real property damaged by the severe storm that occurred on the twenty-ninth and thirtieth of October, two thousand twelve in a city having a population of one million or more, as proposed in legislative bill numbers A. 5620-B/S. 3688-B, takes effect.

JULISSA FERRERAS, *Chairperson*; JAMES VAN BRAMER, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, COREY D. JOHNSON, MARK LEVINE, I. DANEEK MILLER, HELEN K. ROSENTHAL, VINCENT M. IGNIZIO; Committee on Finance, April 16, 2015. *Other Council Members Attending: Cohen.*

On motion of the Speaker (Council Member Mark-Viverito), 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 Mark-Viverito) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for Int. No. 747

Report of the Committee on Finance in favor of approving and adopting, a Local Law in relation to the date of issuance and publication by the Mayor of a ten-year capital strategy, the date of submission by the Mayor of the

proposed executive budget and budget message, the date of submission by the Borough Presidents of recommendations in response to the Mayor's executive budget, the date of publication of a report by the director of the independent budget office analyzing the executive budget, the date by which the Council hearings pertaining to the executive budget shall conclude, the date by which if the expense budget has not been adopted, the expense budget and tax rate adopted as modified for the current fiscal year shall be deemed to have been extended for the new fiscal year until such time as a new expense budget has been adopted, the date by which if a capital budget and a capital program have not been adopted, the unutilized portion of all prior capital appropriations shall be deemed reappropriated, the date of submission by the Mayor of an estimate of the probable amount of receipts, the date by which any person or organization may submit an official alternative estimate of revenues, the date by which if the Council has not fixed the tax rates for the ensuing fiscal year, the commissioner of finance shall be authorized to complete the assessment rolls using estimated rates, and related matters, relating to the fiscal year two thousand sixteen

The Committee on Finance, to which the annexed preconsidered proposed local law was referred on April 16, 2015, respectfully

REPORTS:

Various provisions in the New York City Charter (the "Charter") prescribe the actions that need to be taken as part of the annual budget submission process during a fiscal year. Such provisions also prescribe dates on which these actions must be taken.

Today, the Finance Committee and, upon successful vote by the Committee, the full Council will vote on legislation that would extend the dates for various actions relating to the budget process for Fiscal 2016, including the date by which the Mayor must submit the proposed executive budget and budget message, the date by which the Council must conclude its hearings on the executive budget, the date by which the Mayor must submit its revenue estimate, the date for budget adoption, as well as other dates for related actions in the budget process.

The extended dates are noted below. Generally, most dates were pushed back approximately 11 days, the same length of the extension of time provided for the release of the executive budget.

	Charter Date	Extended Date For FY 2016
Mayor's submission of ten-year capital strategy	not later than April 26	not later than May 7
Mayor's submission of proposed executive budget and budget message	not later than April 26	not later than May 7
Borough Presidents' recommendations in response to Mayor's executive budget	not later than May 6	not later than May 15
Report of the Independent Budget Office on the Mayor's executive budget	not later than May 15	not later than May 26
City Council's public hearings on the Mayor's executive budget	shall conclude by May 25	shall conclude by June 15

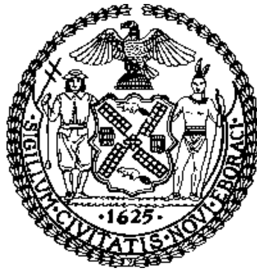
	Charter Date	Extended Date For FY 2014
Date by which if new expense budget is not adopted, the current expense budget and tax rate is deemed extended until such adoption	by June 5	by June 16
Date by which if new capital budget and program are not adopted, unutilized portion of capital appropriations are deemed reappropriated	by June 5	by June 16
Mayor's submission of revenue estimate	not later than June 5	not later than June 16
Submission of alternative revenue estimate	not later than May 15	not later than May 26
Date subsequent to which if Council has not fixed tax rates, DOF may complete rolls and collect property tax at estimated rates	not late than June 5	not later than June 16

Date subsequent to which if Council has not fixed tax rates, the Council shall fix the tax rates for ensuing fiscal year at percentages differing from the estimated rates, and property tax payments shall be paid at the estimated rates. In this event DOF must revise the assessment roll before January 1st and send out an amended bill to reflect the tax rates fixed by the Council.	not later than June 5	not later than June 16

The legislation leaves intact the five days which the Mayor has to veto any increases or additions to the budget or any unit of appropriation or any change in any term and condition as adopted by the Council, as well as the ten-day period which the Council has under law to override any such veto.

This legislation would take effect immediately.

(The following is the text of the Fiscal Impact Statement for Int. No. 747:)



THE COUNCIL OF THE CITY OF NEW YORK FINANCE DIVISION

LATONIA MCKINNEY, DIRECTC

FISCAL IMPACT STATEMENT

PRECONSIDERED INTRO. NO. 747:

COMMITTEE: Finance

TITLE: In relation to the date of issuance and publication by the Mayor of a ten-year capital strategy, the date of submission by the Mayor of the proposed executive budget and budget message, the date of submission by the Borough Presidents of recommendations in response to the Mayor's executive budget, the date of publication of a report by the director of the independent budget office analyzing the executive budget, the date by which the Council hearings pertaining to the executive budget shall conclude, the date by which if the expense budget has not been adopted, the expense budget and tax rate adopted as modified for the current fiscal year shall be deemed to have been extended for the new fiscal year until such time as a new expense budget has been adopted, the date by which if a capital budget and a capital program have not been adopted, the unutilized portion of all prior capital appropriations shall be deemed reappropriated, the date of submission by the Mayor of an estimate of the probable amount of receipts, the date by which any person or organization may submit an official alternative estimate of revenues, the date by which if the Council has not fixed the tax rates for the ensuing fiscal year, the commissioner

of finance shall be authorized to complete the assessment rolls using estimated rates, and related matters, relating to the fiscal year two thousand sixteen.

Sponsors: Council Member Ferreras (by request of the Mayor)

SUMMARY OF LEGISLATION: Various provisions in the New York City Charter (the "Charter") prescribe the actions that need to be taken as part of the annual budget submission process during a fiscal year. Such provisions also prescribe dates on which these actions must be taken.

Pursuant to the proposed legislation, the dates for the Charter-prescribed actions relating to certain steps of the budget adoption process would be extended, 11 days on average, as follows:

1. Mayor's submission of the proposed executive budget and budget message no later than May 7, 2015.

2. Mayor's submission of the Ten-Year Capital Strategy no later than May 7, 2015.

3. Borough Presidents' submission of recommendations in response to Mayor's executive budget no later than May 15, 2015.

4. Director of Independent Budget Office's submission of report analyzing the Mayor's executive budget no later than May 26, 2015.

5. Completion of City Council's executive budget hearings no later than June 15, 2015.

6. If an expense budget has not been adopted by June 16, 2015, the expense budget and tax rate adopted as modified for the current fiscal year shall be deemed to have been extended for the new fiscal year until such time as a new expense budget has been adopted.

7. If a capital budget and capital program have not been adopted by June 16, 2015, the unutilized portion of all prior capital appropriations shall be deemed reappropriated.

8. Mayor's submission to Council of an estimate of probable amount of receipts no later than June 16, 2015.

9. Any person/organization's submission of an official alternative estimate of revenues no later than May 26, 2015.

10. If the Council has not fixed the tax rates for the ensuing year on or before June 16, 2015, the Department of Finance is authorized to complete the rolls and collect property tax using estimated rates.

11. If the Council has not fixed the tax rates for ensuing fiscal year on or before June 16, 2015, the Council shall fix the tax rates for ensuing fiscal year at percentages differing from the estimated rates, and property tax payments shall be paid at the estimated rates. In this event DOF must revise the assessment roll before January 1st and send out an amended bill to reflect the tax rates fixed by the Council.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: 2016

FISCAL IMPACT STATEMENT:

	Effective FY15	FY Succeeding Effective FY16	Full Fiscal Impact FY16
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.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Rebecca Chasan, Assistant Counsel, Finance Division

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

LEGISLATIVE HISTORY: This Preconsidered Intro. will be considered by the Committee on Finance on April 16, 2015. Following a successful vote by the

Committee, the Preconsidered Intro. will be introduced to the full Council and submitted for a vote on April 16, 2015.

DATE PREPARED: April 15, 2015

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)

JULISSA FERRERAS, *Chairperson*; JAMES VAN BRAMER, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, COREY D. JOHNSON, MARK LEVINE, I. DANEEK MILLER, HELEN K. ROSENTHAL, VINCENT M. IGNIZIO; Committee on Finance, April 16, 2015. *Other Council Members Attending: Cohen.*

On motion of the Speaker (Council Member Mark-Viverito), 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 Mark-Viverito) 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. 206

Report of the Committee on Finance in favor of approving Lands End I, Block 246, Lot 1; Manhattan, Community District No. 3, Council District No. 1.

The Committee on Finance to which the annexed preconsidered Land Use item was referred on April 16, 2015, and was coupled with the resolution shown below, respectfully

REPORTS:

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

April 16, 2015

TO: Hon. Julissa Ferreras
Chair, Finance Committee
Members of the Finance Committee

FROM: Rebecca Chasan, Assistant Counsel, Finance Division

RE: Finance Committee Agenda of April 16, 2015 - Resolution approving a tax exemption for one Land Use Item (Council District 1)

Item 1: Lands End I (Council Member Chin's District)

Lands End I consists of 1 building with 256 units of rental housing, 128 of which is for low- and middle-income individuals and families. In February 2014, HP Two Bridges Housing Development Fund Company, Inc. ("HDFC") acquired the property and LE I NYAH II Holdings LLC ("Company") became the beneficial owner and will operate the property. The HDFC and the Company financed the acquisition and rehabilitation of the property with private funds. The HDFC, the Company, and the City's Department of Housing Preservation and Development ("HPD") will enter into a regulatory agreement establishing certain controls upon the operation of the property.

On December 17, 2014, the Council approved Res. 521, pursuant to Section 577 of the Private Housing Finance Law, which granted a partial 40-year exemption from real property taxation which would be coterminous with the period of the regulatory agreement. The partial property tax exemption was granted with the understanding that the regulatory agreement would require that 25 of the affordable units be leased to individuals and families making up to 140% of the area median income ("AMI") and that 103 of the affordable units be leased to individuals and families earning up to 165% of AMI.

Since then, the HDFC and the Company have agreed to deepen the affordability of the apartments such that 39 of the affordable units will be leased to families earning up to 100% of AMI and 89 of the affordable units will be leased to families earning up to 165% of AMI. In 2014, the 100% and 165% of AMI were as follows:

AMI	Individual	Family of Two	Family of Three	Family of Four
100%	$58,800	$67,200	$75,600	$83,900
165%	$97,020	$110,880	$124,740	$138,435

Accordingly, HPD is now requesting that the Council amend the prior property tax exemption to provide that the first five years of the 40-year period be a full property tax exemption while the remaining 35 years be a partial property tax exemption.

This item has the approval of Council Member Chin.

Summary:

- Council District – 1
- Council Member – Chin
- Council Member approval – Yes
- Borough – Manhattan
- Block/Lot – 246/1
- Number of buildings – 1
- Number of units – 128 affordable units, 128 market rate units
- Type of Exemption – Article XI , full for 5 years and partial for 35 years
- Population – Rentals for low- and middle-income individuals and families
- Sponsor/Developer – HP Two Bridges HDFC and LE I NYAH II Holdings LLC
- Cost of the Exemption over the Full Exemption Period – $39.5M
- Open Violations or Outstanding Debt to the City – None
- AMI – 39 of the affordable units will be for individuals and families earning up to 100% of AMI and 89 of the affordable units will be for individuals and families earning up to 165% of AMI

Accordingly, this Committee recommends its adoption.

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

Res. No. 657

Resolution approving an amendment to a previously approved real property tax exemption pursuant to Section 577 of the Private Housing Finance Law for property located at (Block 246, Lot 1) Manhattan (Preconsidered L.U. No. 206).

By Council Member Ferreras.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated March 13, 2015 that the Council amend a previously approved tax exemption for property located at (Block 246, Lot 1) Manhattan (the "Exemption Area") pursuant to Section 577 of the Private Housing Finance Law;

WHEREAS, HPD's request for amendment is related to a previously approved Council Resolution adopted on December 17, 2014 (Res. 521-2014) (the "Prior Resolution"), attached hereto as Exhibit A, granting the Exemption Area a partial exemption from real property taxation pursuant to Section 577 of the Private Housing Finance Law;

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

RESOLVED:

The Council approves the amendment to the Prior Resolution requested by HPD for the Exemption Area pursuant to Section 577 of the Private Housing Finance Law as follows:

The third paragraph of the Prior Resolution is deleted and replaced with the following new paragraph three:

3. Commencing upon the fifth anniversary of the Effective Date, and during each year thereafter until the Expiration Date, the 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 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.

Except as specifically amended above, all other terms, conditions, provisions and requirements of the Prior Resolution remain in full force and effect.

JULISSA FERRERAS, *Chairperson*; JAMES VAN BRAMER, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, COREY D. JOHNSON, MARK LEVINE, I. DANEEK MILLER, HELEN K. ROSENTHAL, VINCENT M. IGNIZIO; Committee on Finance, April 16, 2015. *Other Council Members Attending: Cohen.*

On motion of the Speaker (Council Member Mark-Viverito), 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 Mark-Viverito) 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. 207

Report of the Committee on Finance in favor of approving Penn South, 212-226 9th Avenue (Block 747, Lot 1), 311-351 West 24th Street (Block 748, Lot 1), 250-268 9th Avenue (Block 749, Lot 1), 313 8th Avenue (Block 749, Lot 24), 270-296 9th Avenue (Block 751, Lot 1) and 305 9th Avenue (Block 752, Lot 1), Manhattan, Community District No. 4, Council District No. 3.

The Committee on Finance to which the annexed preconsidered Land Use item was referred on April 16, 2015, and was coupled with the resolution shown below, respectfully

REPORTS:

I. Background

On April 13, 2015, the Committee on Finance, will conduct a hearing on Preconsidered Res. No. 658, which concerns the housing development known as the Mutual Redevelopment Houses, Inc. (also known as "Penn South"). Penn South, located in Manhattan's Chelsea neighborhood, is a redevelopment company organized under Article V of the New York State Private Housing Finance Law ("PHFL") and supervised by the New York City Department of Housing Preservation and Development ("HPD"). In accordance with PHFL §101, a redevelopment company exists to encourage the investment of funds in the public interest to provide for the clearance, replanning, reconstruction, and neighborhood rehabilitation of substandard housing to protect the financial stability of the City.

A mutual redevelopment company is defined as "a redevelopment company which is a corporation operated exclusively for the benefit of the persons or families who are entitled to occupancy in a project of such redevelopment company by reason of ownership of shares in such redevelopment company."[1] Penn South is a limited-equity not-for-profit housing coop built in 1962 and has 2,820 units of affordable housing.

II. Section 125 of the PHFL

Pursuant to PHFL §125(1)(a), the City Council may contract with a redevelopment company to provide for an exemption from real property taxes for a defined period of time. Specifically, §125(1)(a) permits the Council to provide a property tax exemption to a redevelopment company for up to 25 years. The statute

further permits that in the case of a mutual redevelopment company, the Council may contract with the company to extend the tax exemption for an additional 25 years, with the exemption decreasing by a certain percentage every two years, provided that the company apply income limitations for admission to the building.

In 2001, the State Legislature added §125(1)(a-2) to provide that in New York City, where the City Council has extended the tax exemption of a mutual redevelopment company for the additional 25 years, the Council may authorize a tax exemption in the final 11 years of that additional 25 years so that the taxes paid by the mutual redevelopment company would be equal to the greater of i) ten percent of the annual rent or carrying charges of the development less utilities (shelter rent); or ii) the amount of taxes paid by the mutual redevelopment company in Fiscal Year 2001. The statute further provides that the tax exemption could be extended for an additional 10 years under this new formula, for a total of 35 years of an additional tax exemption period beyond the original 25 years of exemption.

Most recently, in December 2014, the State Legislature added §125(1)(a-4) to provide that in New York City, where the Council has extended the tax exemption of a mutual redevelopment company to the maximum extent permitted in §125(1)(a-2), the Council may provide an additional property tax exemption for a period of up to an additional 50 years.

III. History of Penn South's Real Property Tax Exemption

The original contract between Penn South and the City was entered into on March 25, 1959,[2] but the construction of Penn South was not completed until 1962. This original contract expired in 1987. Upon its expiration, Penn South entered into an Amendatory Agreement with the City dated July 1, 1987, whereby Penn South agreed to continue as a limited equity not-for-profit housing cooperative for an additional 25 years, until June 30, 2012. This Amendatory Agreement also provided for a gradual phase-in of real estate taxes over the 25 year period and placed income and other restrictions on Penn South similar to the restrictions applicable by statute to Mitchell-Lama developments.

In 2001, Penn South faced a large tax increase as a result of rising property values in the area and sought to modify the terms of its real property tax exemption. In August 2001, the City Council approved Res. No. 2044 authorizing a Third Amendatory Agreement[3] between the City and Penn South, which extended the tax exemption granted by the City to Penn South for an additional ten years through June 30, 2022.[4] Resolution No. 2044 and the Third Amendatory Agreement also restructured the tax exemption such that the amount of taxes to be paid by Penn South would be equal to the greater of i) ten percent of the annual rent or carrying charges of the development less utilities or ii) $3,477,099, which were the taxes paid by the development in Fiscal 2001. This exemption, which is modeled on the exemption granted to Mitchell-Lama cooperatives, served to insulate the development from severe tax increases based on escalating assessments or increases in the tax rate.

In 2001, the City Council passed Res. No. 813 which approved the Sixth Amendatory Agreement[5] and modified the contract's real property tax exemption language to provide additional tax exemption for eight additional year, through June

30, 2030, under the same terms specified in the Third Amendatory Agreement and set forth above. Specifically, the Sixth Amendatory Agreement states that:

the City agrees to and hereby does grant an additional exemption and exempts from local and municipal taxes, all of the value of the portion of the Redevelopment Project owned by [Penn South] which is taxed as residential pursuant to the terms of the Agreement, for the period commending with the City's tax year July 1, 2022 through June 30, 2023, and continuing through the City's tax year July 1, 2029 through June 30, 2030…The Additional Exemption herein granted shall become effective one (1) business day after the date on which both of the following shall have occurred: (i) the enactment of an amendment to Section 125 of the [PHFL] authorizing the Additional Exemption and (ii) the enactment of a Resolution by the Council of the City of New York approving the Additional Exemption (collectively, the "Enabling Legislation"), provided, however, that the enactment of the Enabling Legislation occurs on or before June 30, 2016 and that the Enabling Legislation is in full force and effect on June 30, 2022.[6]

Accordingly, in 2011, Penn South agreed to continue as a limited equity not-for-profit housing cooperative through June 30, 2030 if the State authorized the City Council to provide for an additional period of exemption and the City Council enacted a resolution providing for such an extension. As set forth above, in December 2014, the State added §125(1)(a-4) authorizing the City Council to act.

IV. Seventh Amendatory Agreement

In December 2005, the City Council approved Resolution No. 1266 which approved a Fifth Amendatory Agreement to the contract between the City of New York and Mutual Redevelopment Houses, Inc. Res. No. 1266 and the Fifth Amendatory Agreement, among other provisions revised the contract to permit secured loans to finance purchases by qualified applicants of stock and occupancy agreements, representing ownership interests in cooperative apartments at Penn South, in accordance with guidelines that are subject to revision with the written permission of HPD and the approval of the Council.

The guidelines set forth in the Fifth Amendatory Agreement limited the secured loans to no more than half of the purchase price of the stock and occupancy agreements. The Seventh Amendatory Agreement would modify the contract to permit the secured loans to finance no more than three-quarters of the purchase price of the stock and occupancy agreements.

V. Preconsidered Res. No. 658

During today's hearing, the Committee will consider Preconsidered Res. No. 658 which would grant Penn South an exemption from real property taxes for an additional period of eight years, commencing on July 1, 2022 and continuing through June 30, 2030. The amount of taxes paid by Penn South during the duration of the additional exemption period would be equal to the greater of i) ten percent of the

annual rent or carrying charges of the development less utilities or ii) $3,477,099, which were the taxes paid by the development in Fiscal 2001

The Preconsidered Resolution would approve the Seventh Amendatory Agreement to the contract between the City and Penn South. The Seventh Amendatory Agreement would modify the contract to permit qualified applicants to finance purchases of stock and occupancy agreements with secured loans of no more than three-quarters of the purchase price. Preconsidered Res. No. 658 would also authorize the Mayor or any Deputy Mayor or the Commissioner of HPD to execute the Seventh Amendatory Agreement when approved as to form by the Corporation Counsel and directs the City Clerk to attest to the same and to affix the seal of the City thereto.

[1] PHFL §102(6).
[2] The original contract was entered into by Penn South and the Board of Estimate on behalf of the City. With the dissolution of the Board of Estimate in 1990, jurisdiction over matters pertaining to Penn South passed to the City Council.

[3] In the intervening years, specifically in 1990 and 1995, the City and Penn South entered into First and Second Amendatory Agreements to modify clauses of the contract that did not relate to the property's real property tax exemption.
[4] This extension of the tax exemption was the maximum extension authorized by the addition of §125(1)(a-2) of the PHFL.
[5] Between 2001 and 2011, specifically in 2005 and 2006, the City and Penn South entered into the Fourth and Fifth Amendatory Agreements to modify clauses of the contract that did not relate to the property's real property tax exemption.
[6] See Sixth Amendatory Agreement, dated June 24, 2011, at ¶1. On file with the Committee on Finance.

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Members Ferreras and Johnson offered the following resolution:

Res. No. 658

Resolution (1) approving an additional exemption from real property taxes for the properties located at 212-226 9th Avenue (Block 747, Lot 1), 311-351 West 24th Street (Block 748, Lot 1), 250-268 9th Avenue (Block 749, Lot 1), 313 8th Avenue (Block 749, Lot 24), 270-296 9th Avenue (Block 751, Lot 1) and 305 9th Avenue (Block 752, Lot 1) in Manhattan, pursuant to Section 125(1)(a-4) of the Private Housing Finance Law, (2) approving a Seventh Amendatory Agreement to the Contract between the City of New York and Mutual Redevelopment Houses, Inc., and (3) authorizing the Mayor or any Deputy Mayor or the Commissioner of the New York City Department of Housing Preservation and Development to execute the Seventh Amendatory Agreement when approved as to form by the Corporation Counsel and directing the City Clerk to attest to the same and to affix the seal of the City thereto. (Preconsidered L.U. No. 207)

By Council Members Ferreras and Johnson.

WHEREAS, The New York City Department of Housing Preservation and Development ("HPD") submitted to the Council of the City of New York its request dated April 6, 2015 that the Council of the City of New York approve an additional exemption from real property taxes for the properties located at 212-226 9th Avenue (Block 747, Lot 1), 311-351 West 24th Street (Block 748, Lot 1), 250-268 9th Avenue (Block 749, Lot 1), 313 8th Avenue (Block 749, Lot 24), 270-296 9th Avenue (Block 751, Lot 1) and 305 9th Avenue (Block 752, Lot 1) in Manhattan ("Exemption Area"), pursuant to Section 125(1)(a-4) of the Private Housing Finance Law; and

WHEREAS, The State Legislature, by enactment of Chapter 531 of the Laws of 2014, which added Section 125(1)(a-4) of the Private Housing Finance Law ("Article V Mutual Authorizing Legislation"), has authorized the local legislative body in a city having a population of one million or more to grant an additional tax exemption for a period of up to fifty years to a mutual redevelopment company for which the local legislative body has previously acted to extend the tax exemption for the maximum period provided for Section 125(1)(a-2) of the Private Housing Finance Law; and

WHEREAS, Such Article V Mutual Authorizing Legislation also provides that such grant of an additional tax exemption period shall take effect upon the expiration of the maximum period provided for in Section 125(1)(a-2) of the Private Housing Finance Law; and

WHEREAS, Such Article V Mutual Authorizing Legislation also provides that the amount of taxes to be paid by such mutual redevelopment company during any such period of tax exemption shall be not less than an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the project minus utilities for the residential portion of the project, or (ii) the taxes payable by such company for the residential portion of the project during the tax year commencing July 1, 2000 and ending on June 30, 2001; and

WHEREAS, Whereas, the Council of the City of New York, the local legislative body of the City of New York, has previously acted, pursuant to Res. No. 2044 of 2001, to extend the tax exemption for properties owned and operated by Mutual Redevelopment Houses, Inc. ("Housing Company") and located in the Exemption Area, pursuant to Section 125(1)(a-2) of the Private Housing Finance Law, for the maximum period provided in Section 125(1)(a-2) of the Private Housing Finance Law; and

WHEREAS, Such tax exemption pursuant to Section 125(1)(a-2) of the Private Housing Finance Law shall expire on June 30, 2022; and

WHEREAS, The City of New York, acting through the Commissioner of its Department of Housing Preservation and Development ("City"), entered into an agreement with the Housing Company, dated as of June 24, 2011 ("Sixth Amendatory Agreement"), which Sixth Amendatory Agreement was approved by the City Council on May 6, 2011 (Res. No. 813 of 2011); and

WHEREAS, In Section 1 of such Sixth Amendatory Agreement, the City and the Housing Company agreed to amend Paragraph 105 of that certain Agreement, dated as of July 1, 1987, between the Housing Company and the City, as amended by an Amendatory Agreement dated as of November, 1990, and further amended by a Second Amendatory Agreement dated as of July 1, 1995, and by a Third Amendatory Agreement dated as of August 22, 2001, and by a Fourth Amendatory Agreement dated as of October 6, 2005, and by a Fifth Amendatory Agreement dated as of January 17, 2006 (collectively, including the Sixth Amendatory Agreement, "City Agreement"), to add a new subparagraph (B) to Paragraph 105 of the City Agreement, to provide, among other things, that, subject to the enactment of the Article V Mutual Authorizing Legislation and the enactment of a resolution by the City Council:

"… the City agrees to and hereby does grant an additional exemption and exempts from local and municipal taxes, all of the value of the portion of the Redevelopment Project owned by the Housing Company which is taxed as residential pursuant to the terms of this Agreement, for the period commencing with the City's tax year July 1, 2022 through June 30, 2023, and continuing through the City's tax year July 1, 2029 through June 30, 2030, provided that the amount of taxes to be paid by the Housing Company during each such tax year shall be an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the Housing Company minus utilities for the residential portion of the Redevelopment Project or (ii) the taxes paid by the Housing Company for the residential portion of the Redevelopment Project in the City's tax year July 1, 2000 through June 30, 2001, in the total amount of $3,477,099.00 (the 'Additional Exemption') …" ;

and

WHEREAS, The Article V Mutual Authorizing Legislation has been enacted by the State Legislature; and

WHEREAS, The Council of the City of New York has determined that, given the tremendous growth in real property values in the Exemption Area, which has caused real property taxes to increase beyond the means of the primarily low- and moderate-income tenants who reside therein, it is in the interest of the City to assist the Housing Company in maintaining affordable rents and carrying charges by granting an additional exemption as authorized by Section 125(1)(a-4) of the Private Housing Finance Law; and

WHEREAS, The Council of the City of New York has considered the financial implications relating to the extended partial exemption from real property taxes; and

WHEREAS, The Fifth Amendatory Agreement to the City Agreement established guidelines, set forth in Section 209, subsection (a)(iii)(B), that, among other things, provided in subsection (a)(iii)(B)(4) of such Section 209, that certain loans made by lenders to cooperators of the Housing Company to finance their purchases of their apartments "… shall not exceed one-half (1/2) of the [purchase] price being paid by such tenant/cooperator[s] …" for their apartments; and

WHEREAS, Due to increases in those purchase prices resulting from such factors as increases in amortization paid to outgoing cooperators of the Housing Company and equity assessments required to be paid by the Housing Company's cooperators, it has become more difficult for some purchasers to assemble the funds needed to purchase their apartments; and

WHEREAS, Such purchases by purchasers can be facilitated by increasing the allowed amount of loans to such purchasers from the currently allowed one-half (1/2) of the purchase price to up to three-quarters (3/4) of the purchase price; and

WHEREAS, Subsection (a)(iii)(C) of such Section 209 as amended by the Fifth Amendatory Agreement also provided that the guidelines could be modified from time to time by resolution of the Board of Directors of the Housing Company, subject to the written approval of HPD and the approval of the City Council; and

WHEREAS, By a resolution adopted March 17, 2015, the Board of Directors of the Housing Company approved the modification to the guidelines authorizing the increase in the allowed amount of loans to purchasers; and

WHEREAS, HPD has indicated it also will approve such increase in the allowed amount of such loans by executing the Seventh Amendatory Agreement once it is approved by the City Council; and

WHEREAS, The Seventh Amendatory Agreement revises Section 209, subsection (a)(iii)(B)(4) of the City Agreement to permit financing of up to three-quarters (3/4) of the purchase price; now, therefore, be it

RESOLVED:

The Council of the City of New York hereby:

1. Approves, pursuant to Private Housing Finance Law § 125(1)(a-4), an additional exemption from real property taxes, other than assessments for local improvements, of all of the residential portion of the Exemption Area for the period commencing with the City's tax year July 1, 2022 through June 30, 2023 and continuing through the City's tax year July 1, 2029 through June 30, 2030, provided,

however, that the amount of taxes to be paid during such period of tax exemption shall not be less than an amount equal to the greater of (i) ten per centum of the annual rent or carrying charges of the project minus the utilities for the residential portion of the project, or (ii) $3,477,099.00, the taxes payable by the Housing Company for the residential portion of the project during the tax year commencing July 1, 2000 and ending on June 30, 2001.

2. Approves, pursuant to Section 209(a)(iii)(C) of the City Agreement and Private Housing Law Section 114, the proposed Seventh Amendatory Agreement between the City of New York and the Housing Company in substantially the form submitted, and authorizes the Mayor or any Deputy Mayor or the Commissioner of the Department of Housing Preservation and Development to execute the Seventh Amendatory Agreement, when approved as to form by the Corporation Counsel, and direct the City Clerk or Acting City Clerk to attest to the same and to affix the seal of the City thereto.

JULISSA FERRERAS, *Chairperson*; JAMES VAN BRAMER, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, COREY D. JOHNSON, MARK LEVINE, I. DANEEK MILLER, HELEN K. ROSENTHAL, VINCENT M. IGNIZIO; Committee on Finance, April 16, 2015. *Other Council Members Attending: Cohen.*

On motion of the Speaker (Council Member Mark-Viverito), 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 Housing and Buildings

Report for Int. No. 433-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 the installation and maintenance of electrical outlet safety devices and tamper-resistant receptacles in certain public parts of multifamily dwellings.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on August 21, 2014 (Minutes, page 3098), respectfully

REPORTS:

<u>Introduction</u>

On April 1, 2015, the Committee on Housing and Buildings, chaired by Council Member Jumaane D. Williams, will hold a hearing to consider Proposed Int. No. 433-A.

The Committee previously considered Proposed Int. No. 433-A at a hearing on October 29, 2014. The Committee received testimony from representatives of the Department of Buildings (DOB), members of the real estate industry, legal advocates and other interested members of the public.

Proposed Int. 433-A

Annually, almost 2,400 children suffer severe burns or shocks from inserting objects into unprotected outlets.[1] Tamper-resistant outlets have proven to be effective in decreasing the risk of harm from exposed electrical outlets by making it more difficult to insert foreign objects into the outlet.[2] Currently, the New York City Electrical Code (Electrical Code) requires tamper-resistant electrical outlets only within dwelling units.[3] This legislation would expand this requirement to new or replacement outlets in the public parts of multiple dwellings, as well as require that safety measures be taken in existing dwellings.

Section one of the bill would add a new section 27-2046.3 to the Administrative Code of the City of New York (the Code). Paragraph a of new section 27-2046.3 requires that owners of existing buildings who have not installed tamper-resistant outlets in accordance with the Electrical Code, as amended by bill section two, must install protective caps or other obstruction devices in the outlets of the public parts of the multiple dwelling (excluding public parts that are used are used solely for mechanical equipment or storage purposes).

Paragraph b of new section 27-2046.3 provides that any owner who fails to comply with this section will be subject to a class A violation.

The National Electrical Code (NEC) is an industry standard for the installation of wiring and other electrical equipment in cases of new construction, alterations or replacements. New York City has adopted this standard and made several New York City specific amendments, most recently in 2008. Section two of the bill amends section 406.11 of the Electrical Code to require that new or replacement outlets in the public parts of a multiple dwelling (except parts used solely for mechanical equipment or storage purposes) be tamper-resistant receptacles.

Changes to Int. No. 433

In addition to various technical edits, Proposed Int. No. 433-A has been substantively amended in the following manner:

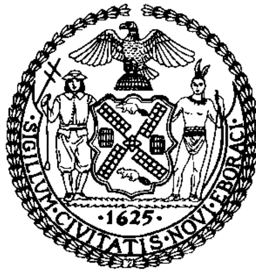
- The bill now requires that new or replacement outlets in the public parts of multiple dwellings be tamper-resistant receptacles.

- Violating the provisions requiring caps or other protective devices for outlets in existing buildings is now a class A (rather than class B) violation.

- The agencies tasked with enforcement under the bill are now the Department of Housing Preservation and Development and DOB.

[1] *See*, "Tamper resistant electrical receptacles," National Fire Protection Association, *available at,* http://www.nfpa.org/safety-information/for-consumers/causes/electrical/tamper-resistant-electrical-receptacles.
[1] *Id.*
[1] *See generally,* National Electrical Code 2008, Article 406, § 406.11.

(The following is the text of the Fiscal Impact Statement for Int. No. 433-A:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 433-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the installation and maintenance of electrical outlet safety devices and tamper-resistant receptacles in certain public parts of multifamily dwellings.	**SPONSOR(S):** Council Members Cohen, Arroyo, Barron, Constantinides, Dickens, Eugene, Koo, Mendez, Rodriguez, Rosenthal, Crowley and Dromm

SUMMARY OF LEGISLATION: This legislation would amend the City's Housing Maintenance Code to require the owners of multiple dwellings to install and maintain protective devices over electrical outlets in public areas. These devices would not be required for outlets in areas mainly used for mechanical equipment or storage purposes, or for those outlets which are listed as tamper resistant according the City's Electrical Code.

Owners who fail to install or maintain protective covers over electrical outlets in these public areas will be subject to a Class "A" (non-hazardous) violation, which is a civil penalty of no less than $10 and no more than $50 per day. The Department of Housing Preservation and Development ("HPD") and the Department of Buildings ("DOB") would be tasked with enforcement of this law.

EFFECTIVE DATE: This local law would take effect 120 days after its enactment except that the commissioners of HPD and DOB may take such actions as are

necessary for its implementation, including the promulgation of rules, prior to the effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2016

FISCAL IMPACT STATEMENT:

	Effective FY16	FY Succeeding Effective FY17	Full Fiscal Impact FY17
Revenues	$0	$0	$0
Expenditures	$0	$0	$0
Net	$0	$0	$0

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

IMPACT ON EXPENDITURES: It is estimated that there would be minimal to no impact on expenditures resulting from the enactment of this legislation because HPD and DOB will use existing resources to implement and enforce this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor's Office of Legislative Affairs
New York City Department of Buildings
New York City Department of Housing Preservation and Development

ESTIMATE PREPARED BY: Sarah Gastelum, Legislative Financial Analyst
Emre Edev, Principal Legislative Financial Analyst

ESTIMATE REVIEWED BY: Rebecca Chasan, Assistant Counsel, New York City Council Finance Division
Nathan Toth, Deputy Director, New York City Council Finance Division
Tanisha Edwards, Chief, Counsel, New York City Council Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on August 21, 2014 as Intro. No. 433 and was referred to the Committee on Housing and Buildings. The legislation was considered by the Committee on Housing and Buildings on October 29, 2014 and laid over. The legislation was subsequently

amended. The Committee on Housing and Buildings will vote on the amended legislation, Proposed Intro. No. 433-A, on April 1, 2015. Upon successful vote by the Committee, Proposed Intro. No. 433-A will be submitted to the full Council for a vote.

DATE PREPARED: March 25, 2015

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 433-A:)

Int. No. 433-A

By Council Members Cohen, Arroyo, Barron, Constantinides, Dickens, Eugene, Koo, Mendez, Rodriguez, Rosenthal, Crowley, Dromm, Kallos and Williams.

A Local Law to amend the administrative code of the city of New York, in relation to the installation and maintenance of electrical outlet safety devices and tamper-resistant receptacles in certain public parts of multifamily dwellings

Be it enacted by the Council as follows:

Section 1. Article 11 of subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2046.3 to read as follows:

§ 27-2046.3 Safety devices for certain electrical outlets required. a. The owner of a multiple dwelling shall install and maintain protective caps, covers or other safety devices over electrical outlets in the public parts of such multiple dwelling, except that (1) such devices shall not be required in public parts used exclusively for mechanical equipment or storage purposes, and (2) such devices shall not be required for electrical outlets that are listed tamper-resistant receptacles in accordance with the New York city electrical code.

b. An owner who fails to install or maintain protective caps, covers or other safety devices in accordance with this section shall be liable for a class A violation.

§ 2. Section 27-3025 of the administrative code of the city of New York is amended by adding New York city amendments to article 406 of the 2008 National Electrical Code to read as follows:

ARTICLE 406
Receptacles, Cord Connectors, and Attachment Plugs (Caps)

SECTION 406.11
Section 406.11 – Revise to read as follows:

406.11 Tamper-Resistant Receptacles in Dwelling Units and Multifamily Dwellings. In all areas specified in 210.52, and in all public parts, as such term is defined in the New York City Housing Maintenance Code, of multifamily dwellings, all 125-volt, 15- and 20-ampere receptacles shall be listed tamper-resistant receptacles.

Exception: Public parts of multifamily dwellings that are used exclusively for mechanical equipment or storage purposes.

§ 3. This local law shall take effect 120 days after its enactment except that the commissioner of housing preservation and development and the commissioner of buildings may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; ROSIE MENDEZ, YDANIS A. RODRIGUEZ, ROBERT E. CORNEGY, Jr., RAFAEL L. ESPINAL, Jr., MARK LEVINE, ANTONIO REYNOSO, HELEN K. ROSENTHAL, RITCHIE J. TORRES, ERIC A. ULRICH; Committee on Housing and Buildings, April 1, 2015. *Other Council Members Attending: Cohen, Johnson and Crowley.*

On motion of the Speaker (Council Member Mark-Viverito), 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 Land Use

Report for L.U. No. 189

Report of the Committee on Land Use in favor of approving Application No. C 140407 ZRM submitted by 1818 Nadlan LLC pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 6 (Special Clinton District), Borough of Manhattan, Community Board 4, Council District 3.

The Committee on Land Use, to which the annexed Land Use item was referred on March 11, 2015 (Minutes, page 829), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 **N 140407 ZRM**

City Planning Commission decision approving an application submitted by 1818 Nadlan, LLC, pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 6 to create a special permit in Section 96-32 (Special Regulations in R9 Districts) for the purposes of waiving the applicable height and setback regulations of Sections 23-633 and 23-663, planting regulations of Section 23-892 and permitted obstruction within rear yard regulations of Section 23-44.

INTENT

This zoning text amendment, in conjunction with the other related special permits actions would facilitate the development of a 15-story residential building with segments along both West 43rd Street and West 44th Street over an open rail cut in the Special Clinton District in Community District 4, Borough of Manhattan.

PUBLIC HEARING

DATE: March 24, 2015

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

SUBCOMMITTEE RECOMMENDATION

DATE: April 13, 2015

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

In Favor: Weprin, Gentile, Garodnick, Richards, Reynoso
Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: April 15, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Garodnick, Mealy, Mendez, Rodriquez, Koo, Lander, Levin, Weprin, Richards, Cohen, Kallos, Reynoso, Torres, Treyger

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

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; Committee on Land Use, April 15, 2015.

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. 190

Report of the Committee on Land Use in favor of approving Application No. C 140408 ZSM submitted by 1818 Nadlan LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681 of the Zoning Resolution to allow a portion of the railroad or transit right-of-way to be included in the lot area in connection with a proposed residential building on property located at 505-513 West 43rd Street a.k.a. 506-512 West 44th Street within the Special Clinton District, Borough of Manhattan, Community Board 4, Council District 3. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on March 11, 2015 (Minutes, page 829), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 **C 140408 ZSM**

City Planning Commission decision approving an application submitted by 1818 Nadlan, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-681 of the Zoning Resolution

to allow that portion of the railroad or transit right-of-way which will be completely covered over by a permanent platform to be included in the lot area in connection with a proposed residential building with two 15-story segments, on property located at 505-513 West 43rd Street a.k.a. 506-512 West 44th Street (Block 1027, Lot 24), in an R9 District, within the Special Clinton District (Preservation Area).

INTENT

This special permit action, in conjunction with the other related actions, would facilitate the development of a 15-story residential building with segments along both West 43rd Street and West 44th Street over an open rail cut in the Special Clinton District in Community District 4, Borough of Manhattan.

PUBLIC HEARING

DATE: March 24, 2015

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

SUBCOMMITTEE RECOMMENDATION

DATE: April 13, 2015

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

In Favor: Weprin, Gentile, Garodnick, Richards, Reynoso
Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: April 15, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Garodnick, Mealy, Mendez, Rodriquez, Koo, Lander, Levin, Weprin, Richards, Cohen, Kallos, Reynoso, Torres, Treyger
Against: *None* **Abstain:** Williams

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; Committee on Land Use, April 15, 2015.

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. 191

Report of the Committee on Land Use in favor of approving Application No. C 140409 ZSM submitted by 1818 Nadlan LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 96-32(c) of the Zoning Resolution to modify the requirements for height, setback, permitted obstructions and planting in connection with a proposed residential building on property located at 505-513 West 43rd Street a.k.a. 506-512 West 44th Street within the Special Clinton District, Borough of Manhattan, Community Board 4, Council District 3. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use, to which the annexed Land Use item was referred on March 11, 2015 (Minutes, page 830), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 **C 140409 ZSM**

City Planning Commission decision approving an application submitted by 1818 Nadlan, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 96-32(c) of the Zoning Resolution to modify the height and setback requirements of Sections 96-32 (Special Regulations in R9 Districts) and 23-633 (Street wall location and height and setback regulations in certain districts), the rear yard setback requirements of Section 23-663 (Required rear setbacks for tall buildings in other districts), the permitted obstructions requirements of Section 23-44 (Permitted Obstructions in Required Yards or Rear Yard Equivalents), and the planting requirements of Section 23-892 (In R6 through R10 Districts), in connection with a proposed residential

building with two 15-story segments on property located at 505-513 West 43rd Street a.k.a. 506-512 West 44th Street (Block 1072, Lot 24), in an R9 District, within the Special Clinton District (Preservation Area).

INTENT

This proposed special permit action, in conjunction with the other related actions, would facilitate the development of a 15-story residential building with segments along both West 43rd Street and West 44th Street over an open rail cut in the Special Clinton District in Community District 4, Borough of Manhattan.

PUBLIC HEARING

DATE: March 24, 2015

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

SUBCOMMITTEE RECOMMENDATION

DATE: April 13, 2015

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

In Favor: Weprin, Gentile, Garodnick, Richards, Reynoso
Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: April 15, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, , Gentile, Palma, Arroyo, Garodnick, Mealy, Mendez, Rodriquez, Koo, Lander, Levin, Weprin, Richards, Cohen, Kallos, Reynoso, Torres, Treyger
Against: *None* **Abstain:** Williams

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN,

JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; Committee on Land Use, April 15, 2015.

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. 195

Report of the Committee on Land Use in favor of approving Application No. 20155355 TCM pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of 002 Mercury Tacos, LLC, d/b/a Otto's Tacos, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 131 Seventh Avenue South, Borough of Manhattan, Community Board 2, Council District 3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and Section 20-226 of the New York City Administrative Code.

The Committee on Land Use to which the annexed Land Use item was referred on March 31, 2015 (Minutes, page 1015), and was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 2 **20155355 TCM**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of 002 Mercury Tacos, LLC, d/b/a Otto's Tacos, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 131 7th Avenue South.

INTENT

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

PUBLIC HEARING

DATE: April 13, 2015

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

SUBCOMMITTEE RECOMMENDATION

DATE: April 13, 2015

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

In Favor: Weprin, Gentile, Garodnick, Richards, Reynoso
Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: April 15, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Garodnick, Mealy, Mendez, Rodriquez, Koo, Lander, Levin, Weprin, Williams, Richards, Cohen, Kallos, Reynoso, Torres, Treyger
Against: *None* **Abstain:** *None*

Accordingly, this Committee recommends its adoption.

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

Res. No. 659

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 131 7th Avenue South, Borough of Manhattan (20155355 TCM; L.U. No. 195).

By Council Members Greenfield and Weprin.

WHEREAS, the Department of Consumer Affairs filed with the Council on March 13, 2015 its approval dated March 10, 2015 of the petition of 002 Mercury Tacos, LLC, d/b/a Otto's Tacos, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 131 7th Avenue South, 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 April 13, 2015; 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.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; Committee on Land Use, April 15, 2015.

On motion of the Speaker (Council Member Mark-Viverito), 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. 196

Report of the Committee on Land Use in favor of approving Application No. 20155377 TCM pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Innovation Kitchens LLC., d/b/a Dominique Ansel Kitchen, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 137 Seventh Avenue South, Borough of Manhattan, Community Board 2, Council District 3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and Section 20-226 of the New York City Administrative Code.

The Committee on Land Use to which the annexed Land Use item was referred on March 31, 2015 (Minutes, page 1015), and was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 2 **20155377 TCM**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Innovation Kitchens, LLC, d/b/a Dominique Ansel Kitchen, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 137 7th Avenue South.

INTENT

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

PUBLIC HEARING

DATE: April 13, 2015

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

SUBCOMMITTEE RECOMMENDATION

DATE: April 13, 2015

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

In Favor:	**Against:**	**Abstain:**
Weprin	None	None
Gentile		
Garodnick		
Richards		
Reynoso		

COMMITTEE ACTION

DATE: April 15, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Garodnick, Mealy, Mendez, Rodriquez, Koo, Lander, Levin, Weprin, Williams, Richards, Cohen, Kallos, Reynoso, Torres, Treyger

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

Accordingly, this Committee recommends its adoption.

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

Res. No. 660

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 137 7th Avenue South, Borough of Manhattan (20155377 TCM; L.U. No. 196).

By Council Members Greenfield and Weprin.

WHEREAS, the Department of Consumer Affairs filed with the Council on March 13, 2015 its approval dated March 10, 2015 of the petition of Innovation Kitchens, LLC, d/b/a Dominique Ansel Kitchen, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 137 7th Avenue South, 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 April 13, 2015; 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.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN,

JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; Committee on Land Use, April 15, 2015.

On motion of the Speaker (Council Member Mark-Viverito), 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. 202

Report of the Committee on Land Use in favor of approving Application No. C 140209 ZSK submitted by SO Development Enterprises, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 106-32(a) and (c) of the Zoning Resolution to allow commercial use and modify yard regulations in connection with the development of a 3-story commercial warehouse building on property located 2702 West 15th Street within the Special Coney Island Mixed Use District, Borough of Brooklyn, Community District 13. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3). This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

The Committee on Land Use to which the annexed Land Use item was referred on March 31, 2015 (Minutes, page 1018), and was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 13 **C 140209 ZSK**

City Planning Commission decision approving an application submitted by SO Development Enterprises, LLC, pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to the following sections of the Zoning Resolution:

1. Section 106-32(a) – to allow a commercial use (U.G. 16D) not otherwise permitted by the provisions of Section 106-31 (Special Provisions for As-of-Right New Buildings for Use Group M or Commercial Use); and

2. Section 106-32(c) – to modify the yard regulations of Section 106-34 (Special Yard Regulations);

to facilitate the development of a 3-story commercial warehouse building on property located at 2702 West 15th Street (Block 6996, Lots 53 and 59), in an M1-2 District, within the Special Coney Island Mixed Use District.

INTENT

To allow commercial use and modify the yard requirements to facilitate the construction of an approximately 35,000 square-foot, three-story commercial warehouse in a M1-2 District, within the Special Coney Island Mixed Use District in Brooklyn Community District 13.

PUBLIC HEARING

DATE: April 13, 2015

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

SUBCOMMITTEE RECOMMENDATION

DATE: April 13, 2015

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

In Favor: Weprin, Gentile, Garodnick, Richards, Reynoso
Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: April 15, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Garodnick, Mealy, Mendez, Rodriquez, Koo, Lander, Levin, Weprin, Williams, Richards, Cohen, Kallos, Reynoso, Torres, Treyger
Against: *None* **Abstain:** *None*

Accordingly, this Committee recommends its adoption.

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

Res. No. 661

Resolution approving the decision of the City Planning Commission on ULURP No. C 140209 ZSK (L.U. No. 202), for the grant of a special permit pursuant to Section 106-32(a) to allow a commercial use (U.G. 16D) not otherwise permitted by the provisions of Section 106-31 (Special Provisions for As-of-Right New Buildings for Use Group M or Commercial Use); and Section 106-32(c) to modify the yard regulations of Section 106-34 (Special Yard Regulations) to facilitate the development of a 3-story commercial warehouse building on property located 2702 West 15th Street (Block 6996, Lots 53 and 59), in an M1-2 District, within the Special Coney Island Mixed Use District, Borough of Brooklyn.

By Council Members Greenfield and Weprin.

WHEREAS, the City Planning Commission filed with the Council on March 20, 2015 its decision dated March 18, 2015 (the "Decision"), on the application submitted by SO Development Enterprises, LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 106-32(a) of the Zoning Resolution to allow a commercial use (U.G. 16D) not otherwise permitted by the provisions of Section 106-31 (Special Provisions for As-of-Right New Buildings for Use Group M or Commercial Use); and Section 106-32(c) to modify the yard regulations of Section 106-34 (Special Yard Regulations); to facilitate the development of a 3-story commercial warehouse building on property located at 2702 West 15th Street (Block 6996, Lots 53 and 59), in an M1-2 District, within the Special Coney Island Mixed Use District, (ULURP No. C 140209 ZSK), Community District 13, 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, the City Planning Commission has made the findings required pursuant to Section 106-32(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 April 13, 2015;

WHEREAS, the Council has considered the land use and environmental implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the negative declaration (CEQR No. 15DCP052K) issued on November 3, 2014 (the "Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the 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, C 140209 ZSK, incorporated by reference herein, the Council approves the Decision subject to the following conditions:

1. The property that is the subject of this application (C 140209 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 Marin Architects, filed with this application and incorporated in this resolution:

Dwg. No.	Title	Last Date Revised
CPC 001	Zoning Analysis	May 5, 2014
CPC 010	Site Plan	May 5, 2014
CPC 030	Waiver Diagram	May 5 2014
CPC 200	Building Sections	May 5 2014

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. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operating 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. 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, 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 or breach of any of the conditions referred to above, may constitute grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, renewal or extension of the special permit hereby granted.

6. 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 action or failure to act in accordance with the provisions of this special permit.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; Committee on Land Use, April 15, 2015.

On motion of the Speaker (Council Member Mark-Viverito), 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. 203

Report of the Committee on Land Use in favor of approving Application No. 20155443 HAK submitted by the New York City Department of Housing Preservation and Development pursuant to Section 577 of the Private Housing Finance Law for a real property tax exemption for properties identified as Block 387, Lot 41, Block 388, Lot 9, Block 389, Lots 12, 13, and 22, Block 395, Lot 48, Block 399, Lot 1, Block 411, Lot 11, Block 413, Lot 36, Block 468, Lot 2, Block 934, Lot 41, Block 947, Lots 8 and 11, Block 949, Lot 46, Block 952, Lots 15 and 67, Block 955, Lots 39, 52, Block 962, Lot 1, Block 992, Lot 32, and Block 1098, Lot 52, on the tax map of the City of New York, Borough of Brooklyn, Community Boards 2 and 6, Council Districts 33 and 39.

The Committee on Land Use to which the annexed Land Use item was referred on March 31, 2015 (Minutes, page 1018), and was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BROOKLYN CB's 2 and 6 **20155443 HAK**

Application submitted by the New York City Department of Housing Preservation and Development (HPD), for a grant of a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law for property located at 150 Nevins Street (Block 387, Lot 41), 258 Bergen Street (Block 388, Lot 9), 320 Bergen Street (Block 389, Lot 12), 322 Bergen Street (Block 389, Lot 13), 332 Bergen Street (Block 389, Lot 22), 579 Warren Street (Block 395, Lot 48), 445 Baltic Street (Block 399, Lot 1), 190 Butler Street (Block 411, Lot 11), 336 Butler Street (Block 413, Lot 36), 421 Smith Street (Block 468, Lot 2), 76 Fifth Avenue (Block 934, Lot 41), 147 Fifth Avenue (Block 947, Lot 8), 141 Fifth Avenue (Block 947, Lot 11), 172 Fifth Avenue (Block 949, Lot 46), 690 Sackett Street (Block 952, Lot 15), 677 Union Street (Block 952, Lot 67), 680 Union Street (Block 955, Lot 39), 643 President Street (Block 955, Lot 52), 77 Garfield Place (Block 962, Lot 1), 254 6th Street (Block 992, Lot 32), and 439 13th Street (Block 1098, Lot 52), in the Borough of Brooklyn.

INTENT

To approve a real property tax exemption for an Exemption Area pursuant to Section 577 of the PHFL for an area that contains twenty-one multiple-dwellings, known as the Fifth Avenue Committee Renaissance project, which provides rental housing for low-income families.

PUBLIC HEARING

DATE: April 13, 2015

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

SUBCOMMITTEE RECOMMENDATION

DATE: April 13, 2015

The Subcommittee recommends that the Land Use Committee approve the requests made by the New York City Department of Housing Preservation and Development.

In Favor: Dickens, Mealy, Rodriguez, Cohen, Treyger
Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: April 15, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Garodnick, Mealy, Mendez, Rodriquez, Koo, Lander, Levin, Weprin, Williams, Richards, Cohen, Kallos, Reynoso, Torres, Treyger

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

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Members Greenfield and Dickens offered the following resolution:

Res. No. 662

Resolution to approve a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL), for the Exemption Area located at 150 Nevins Street (Block 387, Lot 41), 258 Bergen Street (Block 388, Lot 9), 320 Bergen Street (Block 389, Lot 12), 322 Bergen Street (Block 389, Lot 13), 332 Bergen Street (Block 389, Lot 22), 579 Warren Street (Block 395, Lot 48), 445 Baltic Street (Block 399, Lot 1), 190 Butler Street (Block 411, Lot 11), 336 Butler Street (Block 413, Lot 36), 421 Smith Street (Block 468, Lot 2), 76 Fifth Avenue (Block 934, Lot 41), 147 Fifth Avenue (Block 947, Lot 8), 141 Fifth Avenue (Block 947, Lot 11), 172 Fifth Avenue (Block 949, Lot 46), 690 Sackett Street (Block 952, Lot 15), 677 Union Street (Block 952, Lot 67), 680 Union Street (Block 955, Lot 39), 643 President Street (Block 955, Lot 52), 77 Garfield Place (Block 962, Lot 1), 254 6th Street (Block 992, Lot 32), and 439 13th Street (Block 1098, Lot 52), Community Districts 2 and 6, Borough of Brooklyn (L.U. No. 203; 20155443 HAK).

By Council Members Greenfield and Dickens.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on March 18, 2015 its request dated March 13, 2015 that the Council take the following actions regarding a tax exemption for real property located at 150 Nevins Street (Block 387, Lot 41), 258 Bergen Street (Block 388, Lot 9), 320 Bergen Street (Block 389, Lot 12), 322 Bergen Street (Block 389, Lot 13), 332 Bergen Street (Block 389, Lot 22), 579 Warren Street (Block 395, Lot 48), 445 Baltic Street (Block 399, Lot 1), 190 Butler Street (Block 411, Lot 11), 336 Butler Street (Block 413, Lot 36), 421 Smith Street (Block 468, Lot 2), 76 Fifth Avenue (Block 934, Lot 41), 147 Fifth Avenue (Block 947, Lot 8), 141 Fifth Avenue (Block 947, Lot 11), 172 Fifth Avenue (Block 949, Lot 46), 690 Sackett Street (Block 952, Lot 15), 677 Union Street (Block 952, Lot 67), 680 Union Street (Block 955, Lot 39), 643 President Street (Block 955, Lot 52), 77 Garfield Place (Block 962, Lot 1), 254 6th Street (Block 992, Lot 32), and 439 13th

Street (Block 1098, Lot 52), Community Districts 2 and 6, Borough of Brooklyn (the "Exemption Area"):

> Approve a tax exemption of the Exemption Area from real property taxes pursuant to the 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 April 13, 2015; 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) "420-c Benefits" shall mean the tax benefits pursuant to Section 420-c of the Real Property Tax Law which commenced (a) on June 22, 1996 for the real property located in the Borough of Brooklyn, City and State of New York, identified as Block 387, Lot 41, Block 388, Lot 9, Block 399, Lot 1, Block 411, Lot 11, Block 413, Lot 36 and Block 1098, Lot 52, on the Tax Map of the City of New York, and (b) on September 19, 1999, for the real property located in the Borough of Brooklyn, City and State of New York, identified as Block 468, Lot 2, on the Tax Map of the City of New York.

    b) "DAMP Benefits" shall mean the exemption from real property taxation for a portion of the Exemption Area approved by the City Council pursuant to Section 577 of the Private Housing Finance Law on February 15, 1995 (Cal. No. 824).

    c) "Effective Date" shall mean the later of (i) the date of conveyance of Parcel A of the Exemption Area to the HDFC, or (ii) the date that HPD and the HDFC enter into the Regulatory Agreement.

    d) "Exemption Area" shall mean the real property located in the Borough of Brooklyn, City and State of New York, identified as Block 387, Lot 41, Block 388, Lot 9, Block 389, Lots 12, 13, and 22, Block 395, Lot 48, Block 399, Lot 1, Block 411, Lot 11, Block 413, Lot 36, Block 468, Lot 2, Block 934, Lot 41, Block 947, Lots 8

and 11, Block 949, Lot 46, Block 952, Lots 15 and 67, Block 955, Lots 39 and 52, Block 962, Lot 1, Block 992, Lot 32, and Block 1098, Lot 52 on the Tax Map of the City of New York.

e) "Expiration Date" shall mean the earlier to occur of (i) a date which is thirty-two (32) years from the Effective Date, (ii) the date of 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.

f) "HDFC" shall mean Fifth Avenue Committee Housing Development Fund Company, Inc.

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 for the Exemption Area which are in effect on the Effective Date.

i) "Parcel A" shall mean the real property located in the Borough of Brooklyn, City and State of New York, identified as Block 387, Lot 41, Block 388, Lot 9, Block 389, Lots 12 and 13, Block 395, Lot 48, Block 399, Lot 1, Block 411, Lot 11, Block 413, Lot 36, Block 468, Lot 2, Block 934, Lot 41, Block 947, Lots 8 and 11, Block 949, Lot 46, Block 952, Lots 15 and 67, Block 955, Lots 39 and 52, Block 962, Lot 1, Block 992, Lot 32, and Block 1098, Lot 52 on the Tax Map of the City of New York.

j) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.

k) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the HDFC establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.

2. The DAMP Benefits and the 420-c Benefits shall terminate on the Effective Date.

3. 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.

4. Notwithstanding any provision hereof to the contrary:

   a. 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 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, (iv) the Exemption Area has been conveyed to a new owner without the prior written approval of HPD, or (v) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to HDFC and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.

   b. The New Exemption shall apply to all land in the Exemption Area, but shall only apply to buildings on the Exemption Area that exist 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 New Exemption, the owner of the Exemption Area, for so long as the New 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. Notwithstanding the foregoing, the J-51 Benefits shall remain in effect, but the New Exemption shall be reduced by the amount of the J-51 Benefits.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; Committee on Land Use, April 15, 2015.

On motion of the Speaker (Council Member Mark-Viverito), 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. 204

Report of the Committee on Land Use in favor of approving Application No. 20155444 HAM submitted by the New York City Department of Housing Preservation and Development pursuant to Section 577 of the Private Housing Finance Law for a real property tax exemption for properties identified as Block 2031, Lots 5, 7, 10, and 12, Block 2025, Lots 44, 46, 47, and 49, and Block 1823, Lot 18, on the tax map of the City of New York, Borough of Manhattan, Community Board 10, Council District 9.

The Committee on Land Use to which the annexed Land Use item was referred on March 31, 2015 (Minutes, page 1019), and was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 10 **20155444 HAM**

Application submitted by the New York City Department of Housing Preservation and Development (HPD), for a grant of a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law for property located at 251 West 145th Street (Block 2031, Lot 5), 247 West 145th Street (Block 2031, Lot 7), 243 West 145th Street (Block 2031, Lot 10), 239 West 145th Street (Block 2031, Lot 12), 210 West 140th Street (Block 2025, Lot 44), 212 West 140th Street (Block 2025, Lot 46), 214 West 140th Street (Block 2025, Lot 47), 216 West 140th Street (Block 2025, Lot 49), and 60 St. Nicholas Avenue (Block 1823, Lot 18), in the Borough of Manhattan.

INTENT

To approve a real property tax exemption for an Exemption Area pursuant to Section 577 of the PHFL for an area that contains nine multiple-dwellings, known as Northern Manhattan Equities Phase II, which provides rental housing for low-income families.

PUBLIC HEARING

DATE: April 13, 2015

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

SUBCOMMITTEE RECOMMENDATION

DATE: April 13, 2015

The Subcommittee recommends that the Land Use Committee approve the requests made by the New York City Department of Housing Preservation and Development.

In Favor: Dickens, Mealy, Rodriguez, Cohen, Treyger
Against: *None* **Abstain:** *None*

COMMITTEE ACTION

DATE: April 15, 2015

The Committee recommends that the Council approve the attached resolution.

In Favor: Greenfield, Gentile, Palma, Arroyo, Garodnick, Mealy, Mendez, Rodriquez, Koo, Lander, Levin, Weprin, Williams, Richards, Cohen, Kallos, Reynoso, Torres, Treyger
Against: *None* **Abstain:** *None*

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Members Greenfield and Dickens offered the following resolution:

Res. No. 663

Resolution to approve a real property tax exemption pursuant to Section 577 of the Private Housing Finance Law (PHFL), for the Exemption Area located at 251 West 145th Street (Block 2031, Lot 5), 247 West 145th Street (Block 2031, Lot 7), 243 West 145th Street (Block 2031, Lot 10), 239 West 145th Street (Block 2031, Lot 12), 210 West 140th Street (Block 2025, Lot 44), 212 West 140th Street (Block 2025, Lot 46), 214 West 140th Street (Block 2025, Lot 47), 216 West 140th Street (Block 2025, Lot 49), and 60 St. Nicholas Avenue (Block 1823, Lot 18), Community District 10, Borough of Manhattan (L.U. No. 204; 20155444 HAM).

By Council Members Greenfield and Dickens.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on March 18, 2015 its request dated March 13, 2015 that the Council take the following actions regarding a tax exemption for real property located at 251 West 145th Street (Block 2031, Lot 5), 247 West 145th Street (Block 2031, Lot 7), 243 West 145th Street (Block 2031, Lot 10), 239 West 145th Street (Block 2031, Lot 12), 210 West 140th Street (Block 2025, Lot 44), 212 West 140th Street (Block 2025, Lot 46), 214 West 140th Street (Block 2025, Lot 47), 216 West 140th Street (Block 2025, Lot 49), and 60 St. Nicholas Avenue (Block 1823, Lot 18), Community District 10, Borough of Manhattan (the "Exemption Area"):

> Approve a tax exemption of the Exemption Area from real property taxes pursuant to the 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 April 13, 2015; 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:

2. For the purposes hereof, the following terms shall have the following meanings:

    (a) "420-c" Benefits shall mean the tax benefits pursuant to Section 420-c of the Real Property Tax Law that commenced on July 1, 2008 for the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1823, Lot 18 on the Tax Map of the City of New York.

    (b) "Company" shall mean Northern Manhattan Equities II LLC.

    (c) "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 Owner enter into the Regulatory Agreement.

    (d) "Exemption" shall mean the exemption from real property taxation provided hereunder.

(e) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 1823, Lot 18, Block 2025, Lots 44, 46, 47 and 49, and Block 2031, Lots 5, 7, 10 and 12 on the Tax Map of the City of New York.

(f) "Expiration Date" shall mean the earlier to occur of (i) a date which is thirty-one and a half (31.5) years from the Effective Date, (ii) the date of 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.

(g) "HDFC" shall mean NME II Housing Development Fund Company, Inc.

(h) "HPD" shall mean the City of New York Department of Housing Preservation and Development.

(i) "J-51 Benefits" shall mean any tax benefits pursuant to Section 489 of the Real Property Tax Law for the Exemption Area which are in effect on the Effective Date.

(j) "Owner" shall mean, collectively, the HDFC and the Company.

(k) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the Owner establishing certain controls upon the operation of the Exemption Area during the term of the Exemption.

2. The 420-c Benefits shall terminate on the Effective Date.

3. 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.

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, (iv) the Exemption Area is conveyed to a new owner without the prior written approval of HPD, or (v) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to 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 apply to all land in the Exemption Area, but shall only apply to buildings on the Exemption Area that exist 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 which may be authorized under any existing or future local, state or federal law, rule or regulation. Notwithstanding the foregoing, the J-51 Benefits shall remain in effect, but the Exemption shall be reduced by the amount of the J-51 Benefits.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; Committee on Land Use, April 15, 2015.

On motion of the Speaker (Council Member Mark-Viverito), 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 Transportation

Report for Int. No. 211-A

Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to a bus rapid transit plan.

The Committee on Transportation, to which the annexed amended proposed local law was referred on March 26, 2014 (Minutes, page 853), respectfully

REPORTS:

INTRODUCTION

On April 15, 2015, the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, held a hearing on Proposed Int. No. 211-A, a local law in relation to a bus rapid transit plan. The first hearing on this legislation was on February 10, 2015, at which time the Committee heard testimony from representatives of the New York City Department of Transportation ("DOT"), Metropolitan Transportation Authority ("MTA"), interested advocates, and stakeholders. Following the hearing, the bill was amended to require DOT to provide biennial summaries on implementation of the plan from 2019 through 2027.

BACKGROUND

Bus rapid transit ("BRT") is a bus system that is designed to make bus service faster, more reliable and efficient, and, ultimately, more useful, attractive, and popular. According to the Institute for Transportation and Development Policy, the essential elements of BRT include dedicated bus-only lanes that are fully segregated from mixed traffic, aligned to the center of the roadway, and designed to prevent mixed traffic from making turns across the bus lane, as well as off-board fare collection and platform-level boarding.[1] BRT systems aim to achieve the speed, reliability, and capacity of a rail system while maintaining the flexibility and lower costs of buses.

The first BRT system was introduced in Curitiba, Brazil in 1974.[2] Since then, many cities have implemented BRT systems, particularly in Latin America.[3] Today over 31 million passengers use BRT systems in 189 cities around the world.[4]

BRT in New York

New Yorkers' commuting times are increasing, rising housing costs are pushing more and more families away from Manhattan and subway lines, and job centers in the outer boroughs are growing.[5] Creating a faster, more reliable, and overall more attractive bus system helps both employers and employees connect with each other, in addition to bringing the quality-of-life improvements associated with easier access to healthcare facilities, schools, and shopping.

In order to meet this growing demand for better transit, DOT and MTA collaborated to bring a version of BRT to New York City called Select Bus Service ("SBS"), with the first line, the Bx12 SBS on Fordham Road in the Bronx, beginning operation in June 2008.[6] DOT is responsible for making necessary changes to the streetscape, while the MTA provides the buses and the service. Today, there are seven SBS routes throughout the City: Fordham Road and Webster Avenue in the Bronx; 125th Street, 34th Street, and 1st/2nd Avenues in Manhattan; Hylan Boulevard on Staten Island; and Nostrand Avenue in Brooklyn.[7] Mayor Bill de Blasio has pledged to increase the number of SBS routes in the city to 20 by the end of 2017.[8]

SBS incorporates several features aimed at improving the speed and reliability of bus service, including dedicated bus lanes, less-frequent stops (compared to local bus service), off-board fare payment, all-door boarding, bus bulb stations (extension of the sidewalk to the bus lane, sometimes with a higher curb that is near-level with the floor of the bus), and traffic-signal priority (technology which keeps traffic lights green for approaching buses).[9] SBS also uses distinctive branding on buses and at stations.[10] Bus lane restrictions are enforced by police and by cameras which capture license plate information, though State law limits the use of cameras to certain routes, types of streets, and times of day.[11] Riders pay the fare, which is the same as the regular local bus fare, using cash or a MetroCard at machines located at each stop and receive a receipt which they must show to police or MTA personnel upon request as proof of payment. The MTA employs a squad of enforcement personnel called the Eagle Team to periodically check customers' fare payment compliance on SBS routes.[12]

Achievements and Advantages of SBS

SBS has been relatively successful on the routes where it has been implemented to date. For example, on Fordham Road, travel times went down almost 20 percent and ridership rose by over 5,000 passengers per day once SBS was introduced.[13] Customer satisfaction on the route rose to 98 percent, compared to 68 percent satisfaction rate among traditional local bus users.[14] Further, local businesses along the route saw a 73 percent increase in retail sales compared to a borough-wide increase of 23 percent, likely a result of increased foot traffic.[15] On the M15 SBS corridor in Manhattan, data shows that overall congestion has decreased with the creation of separated bus and bike lanes, changes which also led to a seven percent decrease in crashes and a 14 percent decrease in injuries.[16] On 125th Street, implementation of SBS has resulted in bus trips that are 32-34 percent faster on the M60 SBS between Lenox Avenue and Second Avenue.[17]

BRT is one of the most cost-efficient ways to improve mass transit. Whereas the three-stop Phase 1 of the Second Avenue Subway will cost $4.45 billion, each new

SBS line has cost between $7 million and $18 million.[18] Additionally, as seen after Hurricane Sandy, buses provide critical flexibility when other modes of transit, such as subways, succumb to any sort of disaster. A robust, established bus network has the potential to be even more prepared to handle and adapt to increased demand when needed.[19]

Criticism and Challenges for SBS

Some advocates argue that various enhancements, such as physically separated bus lanes, bus lanes aligned to the center of roadways, more turn restrictions, and platform-level boarding are needed to make SBS a “true” BRT system and to maximize the benefits of speed and reliability that come with full-fledged BRT.[20] In December 2013, the Pratt Center for Community Development issued a report funded by the Rockefeller Foundation which makes the case for full-fledged BRT in New York City and identifies corridors where such systems could be feasible and beneficial. Bus lanes aligned along the center of the roadway are a possibility on a planned Woodhaven Boulevard SBS route, which would take New York City one step closer to having full-fledged BRT; typically SBS bus lanes have been installed along the curb or offset from the curb by one lane of parking or loading zones.[21]

At times, SBS routes—including the Fordham Road and 125th Street routes—have encountered resistance from local communities concerned about negative impacts on traffic, loss of parking, impacts on local businesses, and general concerns about community consultation. For instance, the original plan for a physically separated bus lane on 34th Street was scaled back due to property owner concerns.[22] In addition, the use of flashing blue lights, which originally helped distinguish SBS buses from regular local buses, was discontinued as a result of concerns related to driver confusion and distraction raised by some elected officials who cited a State law that only allows flashing blue lights to be used on volunteer firefighters' vehicles.[23]

ANALYSIS

Section one of Int. No. 211-A would amend title 19 of the administrative code of the city of New York by adding a new chapter 8 entitled “Bus Rapid Transit.” New section 19-801 of new chapter 8 would require DOT to develop a plan to create a citywide network of BRT lines connecting the City's boroughs. In developing the plan, DOT would be required to consult with the MTA and use input from the public. The plan would consider: (1) identify areas in need of additional bus rapid transit options; (2) strategies for serving areas of the City expected to experience growth identified by the Department of City Planning, the Department of Housing Preservation and Development, or the Economic Development Corporation; (3) identify potential additional BRT lines both connecting boroughs and/or within boroughs where DOT intends to add BRT lines within ten years of the release of the plan; (4) strategies for integrating current and future transit lines; and (5) assess the anticipated capital and operating costs of additional planned BRT lines. The plan would be required to be submitted to the Council, the Borough Presidents,

Community Boards, and posted on DOT's website no later than two years after the effective date of the local law.

New subdivision b would require summaries on the implementation of the plan submitted every two years by September 1, beginning in 2019 through 2027. Such summaries would be required to include information on the establishment of additional BRT lines,[24] any deviations from the plan and reasons for such changes, and any monies allocated for capital or operating costs for such lines. The summaries would be required to be submitted to the Council, the Borough Presidents, Community Boards, and posted on DOT's website.Section two of Int. No. 211-A states that the local law would take effect immediately.

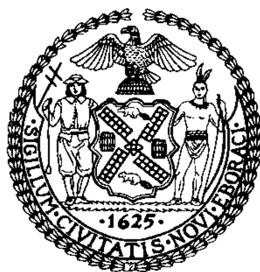
UPDATE

On April 15, 2014, the Committee on Transportation passed Int. No. 211-A by a vote of twelve in the affirmative and zero in the negative, with one abstentions.

[1] Institute for Transportation & Development Policy, What is BRT?, https://www.itdp.org/library/standards-and-guides/the-bus-rapid-transit-standard/what-is-brt/ (*last accessed* Feb. 6, 2015).
[2] Institute for Transportation & Development Policy, *Recapturing Global Leadership in Bus Rapid Transit* 5 (May 2011), *available at* https://www.itdp.org/wp-content/uploads/2014/07/20110526ITDP_USBRT_Report-HR.pdf.
[3] Institute for Transportation & Development Policy, The Bus Rapid Transit System, https://www.itdp.org/library/standards-and-guides/the-bus-rapid-transit-standard/ (*last accessed* Feb. 6, 2015).
[4] World Resources Institute – Embarq, Global BRT Data, http://www.brtdata.org/ (*last accessed* Feb. 6, 2015).
[5] Rockefeller Foundation, *Mobility and Equity for NewYork's Transit-Starved Neighborhoods* (Dec. 2013), *available at* http://www.rockefellerfoundation.org/uploads/files/0f9f0be2-aa3a-4b1c-91a2-0174913a2293-gsg.pdf.
[6] Metropolitan Transportation Authority, Current & Planned SBS Routes, http://web.mta.info/mta/planning/sbs/routes.html (*last accessed* Feb. 6, 2015).
[7] N.Y.C. Department of Transportation, Bus Rapid Transit: Routes, http://www.nyc.gov/html/brt/html/routes/routes.shtml (*last accessed* Feb. 6, 2015).
[8] Stephen Miller, *Bus Rapid Transit, Not Ferry Subsidies, Would Help Struggling New Yorkers,* Feb. 3, 2015, Streetsblog, http://www.streetsblog.org/2015/02/03/bus-rapid-transit-not-ferry-subsidies-would-help-struggling-new-yorkers/.
[9] N.Y.C. Department of Transportation, Select Bus Service Features, http://www.nyc.gov/html/brt/html/about/sbs-features.shtml (*last accessed* Feb. 3, 2015).
[10] Metropolitan Transportation Authority, What Is Bus Rapid Transit (BRT)?, http://web.mta.info/mta/planning/sbs/whatis.htm (*last accessed* Feb. 6, 2015).
[11] N.Y. State Vehicle and Traffic Law § 111-c.
[12] Metropolitan Transportation Authority, *MTA's Eagle Team*, May 18, 2012, *available at* http://www.mta.info/news/2012/05/18/mtas-eagle-team.
[13] Metropolitan Transportation Authority, Select Bus Service, http://web.mta.info/mta/planning/sbs/index.html (*last accessed* Feb. 6, 2015).
[14] Metropolitan Transportation Authority, *Bx12 Select Bus Service One Year Report* (Oct. 2009), *available at* http://web.mta.info/mta/planning/sbs/docs/Bx12-SBS-OneYearReport.pdf.
[15] Ben Fried, *DOT: Local Retail Thrives After Projects Improved Transit, Biking, Walking,* Oct. 24, 2012, Streetsblog, http://www.streetsblog.org/2012/10/24/dot-study-local-retail-thriving-after-projects-improved-transit-biking-and-walking/.
[16] N.Y.C. Department of Transportation, *Select Bus Service M15 on First and Second Avenues: Progress Report* (Nov. 2011), *available at*

http://www.nyc.gov/html/brt/downloads/pdf/201111_1st2nd_progress_report.pdf.
[17] Stephen Miller, *Bus Lanes Worked Wonders on East 125th. Now What About the West Side?,* Jan. 12, 2015, Streetsblog, http://www.streetsblog.org/2015/01/12/bus-lanes-boosted-buses-on-125th-street-but-what-about-west-harlem/#more-337827.
[18] Information on file with N.Y.C. Council Finance Division.
[19] Rockefeller Foundation, *supra* note 5.
[20] *Id.* at 14-15.
[21] Ben Fried, *First Look: Woodhaven BRT Could Set New Standard for NYC Busways*, Nov. 8, 2014, Streetsblog, http://www.streetsblog.org/2014/11/06/first-look-woodhaven-brt-could-set-new-standard-for-nyc-busways/.
[22] Noah Kazis, *34th Street Select Bus Service Launches This Sunday,* Nov. 11, 2011, Streetsblog, http://www.streetsblog.org/2011/11/11/34th-street-select-bus-service-launches-this-sunday/.
[23] Stephen Miller, *When Will Select Bus Service Get Its Flashing Lights Back?,* Apr. 10, 2014, Streetsblog, http://www.streetsblog.org/2014/04/10/how-can-you-tell-sbs-from-local-sbs-had-its-flashing-lights-removed/.
[24] The word "transit" was inadvertently omitted from phrase "information on the establishment of additional bus rapid lines" in new subdivision b.

(The following is the text of the Fiscal Impact Statement for Int. No. 211-A:)



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO.: 211-A

COMMITTEE: Transportation

TITLE: A local law to amend the administrative code of the city of New York, in relation to a bus rapid transit plan.

SPONSOR(S): Council Members Lander, Chin, Johnson, Levine, Mendez, Wills, Rosenthal, Menchaca, Cohen, Constantinides, Lancman, Torres, Rodriguez, Vallone, Reynoso, Koslowitz, Kallos, Crowley, Arroyo, Levin, Espinal, Van Bramer, Treyger, Garodnick, Rose, Williams, Richards, Vacca, Maisel, Weprin, Koo, Dromm, Gibson, Barron, Ferreras and Ulrich

SUMMARY OF LEGISLATION: Since 2012, the City's Department of Transportation (DOT) and the Metropolitan Transportation Authority (MTA) has collaborated on the City's form of Bus Rapid Transit (BRT) termed Select Bus Service (SBS). To date, eight routes of SBS has been implemented with the Administration committing to increase the number of routes citywide to 20 by the end of 2017. This bill would require the DOT to partner with the MTA and, with

input from the public, to develop a citywide BRT plan by September 1, 2017. In addition, the bill would require that the plan consider areas of the City in need of additional rapid transit options, strategies for serving growing neighborhoods, potential intra-borough and inter-borough BRT corridors that DOT plans to establish by 2027, strategies for integrating BRT with other transit routes, and the anticipated operating costs of additional BRT lines. Also, the bill would require DOT to update the Council on the implementation of the plan every two years, through 2027.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2017

FISCAL IMPACT STATEMENT:

	Effective FY15	FY Succeeding Effective FY16	Full Fiscal Impact FY17
Revenues	**$0**	**$0**	**$0**
Expenditures	**$0**	**$0**	**$0**
Net	**$0**	**$0**	**$0**

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

IMPACT ON EXPENDITURES: Because the DOT will use existing resource to implement this legislation, it is estimated that the enactment of this legislation would have no impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: New York City General Fund

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

ESTIMATE PREPARED BY: Chima Obichere, Unit Head, New York City Council Finance Division

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director, New York City Council Finance Division

Rebecca Chasan, Assistant Counsel, New York City Council Finance Division

Tanisha Edwards, Chief Counsel, New York City Council Finance Division

LEGISLATIVE HISTORY: Intro. No. 211 was introduced to the Council on March 26, 2014 and referred to the Committee on Transportation. The Committee on Transportation held a hearing on Intro. No. 211 on February 10, 2015 and the legislation was laid over. Intro. No. 211 was subsequently amended, and the amended version, Proposed Intro. No. 211-A, will be voted on by the Committee on Transportation on April 15, 2015. Upon successful vote by the Committee, Proposed Intro. No. 211-A will be submitted to the full Council for a vote on April 16, 2015.

DATE PREPARED: April 13, 2015.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 211-A:)

Int. No. 211-A

By Council Members Lander, Chin, Johnson, Levine, Mendez, Wills, Rosenthal, Menchaca, Cohen, Constantinides, Lancman, Torres, Rodriguez, Vallone, Reynoso, Koslowitz, Kallos, Crowley, Arroyo, Levin, Espinal, Van Bramer, Treyger, Garodnick, Rose, Williams, Richards, Vacca, Maisel, Weprin, Koo, Dromm, Gibson, Barron, Ferreras and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to a bus rapid transit plan.

Be it enacted by the Council as follows:

Section 1. Title 19 of the administrative code of the city of New York is amended by adding a new chapter 8 to read as follows:

CHAPTER 8 - BUS RAPID TRANSIT

§ 19-801 Bus rapid transit plan. a. No later than September 1, 2017, the department shall consult with the metropolitan transportation authority and, with input from the public, submit to the council, the borough presidents, and the community boards and post on the department's website a plan to create a citywide network of bus rapid transit lines connecting the boroughs of the city of New York. Such plan shall consider the following: (1) areas of the city in need of additional bus rapid transit options; (2) strategies for serving areas of the city identified for growth by at least one of the following sources: the department of city planning, the

department of housing preservation and development, or the economic development corporation; (3) identifying potential additional intra-borough and/or inter-borough bus rapid transit corridors the department intends to establish in the ten years following the release of such plan; (4) strategies for integration with current and future transit routes in the region; and (5) the anticipated capital and operating costs of such additional bus rapid transit lines.

b. No later than September 1, 2019 and every two years thereafter through September 1, 2027, the department shall submit to the council, the borough presidents, and the community boards and post on the department's website a summary on the implementation of the plan required under subdivision a of this section, including, but not limited to: information on the establishment of additional bus rapid lines; any deviations from such plan and reasons for deviations; and monies allocated to capital and operating costs for such additional lines.

§ 2. This local law shall take effect immediately.

YDANIS A. RODRIGUEZ, *Chairperson*; DANIEL R. GARODNICK, JAMES VACCA, MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, JAMES G. VAN BRAMER, MARK S. WEPRIN, DAVID G. GREENFIELD, COSTA G. CONSTANTINIDES, CARLOS MENCHACA, ANTONIO REYNOSO; Committee on Transportation, April 15, 2015. *Other Council Members Attending: Lander and Treyger.*

On motion of the Speaker (Council Member Mark-Viverito), 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. 597-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 car sharing in the city fleet.

The Committee on Transportation, to which the annexed amended proposed local law was referred on December 17, 2014 (Minutes, page 4541), respectfully

REPORTS:

INTRODUCTION

On April 15, 2015, the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, held a hearing on Proposed Int. No. 597-A, a local law in relation to car sharing in the City fleet. The first hearing on this legislation was on February 10, 2015, at which time the Committee heard testimony from representatives of the New York City Department of Citywide Administrative

Services (DCAS), car sharing services, as well as other interested stakeholders. Following the hearing, the bill was amended to include inspection and enforcement vehicles in the category of those exempted from car sharing, to include a definition of "light-duty," and to adjust the percentage of vehicles which must be removed from service to nine percent over five years.

BACKGROUND

New York City owns and operates almost 27,000 vehicles as part of its municipal fleet, costing an estimated $700 million annually.[1] The fleet includes 480 different vehicle makes, ranging from standard passenger vehicles to specialized vehicles such as mobile laboratories, fire engines, and waste collection trucks.[2] Vehicles are generally classified as light, medium, heavy, or specialized. Light vehicles are the most common, comprising 42 percent of the fleet, followed by heavy vehicles (26 percent), medium vehicles (18 percent), and specialized vehicles (13 percent).[3] In total, the purchase price of the City fleet was just over $2.2 billion.[4] Within the ten largest fleet operating agencies, a staff over 1,700 full-time employees works to repair vehicles and operate garages.[5]

Over 50 City agencies utilize vehicles in the City fleet.[6] In 2012, the City embarked on an effort to streamline fleet operations and lower costs.[7] Mayor Michael Bloomberg issued an Executive Order directing DCAS to develop and execute a plan to consolidate the City fleet and ensure the sharing of repair, maintenance, garage, and fueling resources.[8] Further, DCAS was required to modernize the procurement and sale of City vehicles, develop a strategy to use biodiesel and electric vehicles in the fleet, and appoint a Chief Fleet Management Officer to implement the Executive Order and to generally oversee the fleet, fueling, and garage resources.[9]

Pursuant to Mayor Bloomberg's Executive Order, an interagency team known as the Fleet Federation—compromised of the largest fleet operating agencies—led by the Chief Fleet Management Officer at DCAS was established to implement Citywide fleet policies.[10] Eight agencies included in the Federation—including the Police Department, the Fire Department, the Department of Sanitation, and the Department of Transportation (DOT)—operate over 90 percent of the fleet.[11] This core group of agencies worked to achieve the goals of the Order and by 2014 succeeded in reducing the City's non-emergency light-duty fleet by 475 vehicles, consolidated facilities, implemented motor pools, and developed an action system to sell vehicles.[12] In total, it is estimated that measures to consolidate the City fleet enacted following the Executive Order resulted in a savings of $415 million.[13] However, maintenance of the fleet and vehicle purchases remains a considerable expense for the City.

The high fiscal and environmental costs of maintaining municipal fleets have led a number of large cities such as Chicago, Houston, and Boston to launch programs allowing employees to share vehicles for short-term use.[14] Chicago's municipal car sharing program netted that city a savings of approximately $7 million between 2011 and 2014.[15] In 2011, the San Francisco City Administrator and each Department head were required to begin reducing their fleet by at least five percent each year from 2011 to 2015, and to maximize the use of car-sharing.[16] The benefits of car-

share programs include lower emissions, cost savings, reducing vehicles on the roads, lower parking demand, and a decrease in the improper use of government vehicles.[17]

In 2010, DOT partnered with Zipcar to provide 300 agency employees with access to 25 shared vehicles as part of a one-year pilot.[18] Currently, approved City employees can use Zipcar vehicles for official City business.[19] The City's previous and current car-share pilot programs seem to indicate that use of shared vehicles is fiscally and environmentally beneficial. Int. No. 597-A would build upon the City's work to reduce and modernize the City fleet by calling for increased use of car sharing and an overall reduction in the fleet by nine percent.

ANALYSIS

Section one of Int. No. 597-A would amend title 6 of the administrative code of the city of New York by adding a new section 6-140 regarding car sharing in the City fleet. New subdivision a would set forth definitions for the new section. "Car sharing" would be defined as a shared-use motor vehicle program providing a geographically distributed fleet of vehicles that are made available on an hourly or short term basis, or a program that provides technology allowing the City to internally share its fleet. "Car sharing organization" would be defined as an organization providing pre-approved members with access to vehicles at geographically distributed locations for an hourly rate including fuel, maintenance, and insurance, or an organization that provides technology or services that allow the City to internally share its fleet. "City agency" would be defined as a City, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution or agency whose expenses are paid in whole or in part from the City treasury. "Motor vehicle" would be defined as a vehicle operated on a highway that is propelled by any power other than muscular power. The term would exclude electrically-driven mobility assistance devices operated by a person with a disability, as well as vehicles are specially equipped for emergency response, inspection, or enforcement by the Department of Environmental Protection, the Department of Sanitation, the Department of Transportation, the Office of Emergency Management, the Sheriff's Office of the Department of Finance, the Police Department, the Fire Department, and the Department of Correction. "Light-duty vehicle" would be defined to mean motor vehicles that have a gross weight of less than 8,500 pounds, including sedans, utility vehicles, pick-up trucks, and vans.

New subdivision b would require the City to establish a car sharing program for all City agencies that use vehicles. New subdivision c would require that beginning January 1, 2016 and every year thereafter through December 31, 2019, the City permanently remove from the fleet at least two percent of light-duty vehicles through strategies such as car sharing. For the year beginning January 1, 2020, the City permanently remove from the fleet at least one percent of light-duty vehicles through strategies such as car sharing. New subdivision c would not apply to light-duty vehicles that were added to an agency's fleet in connection with a proportional increase in that agency's headcount in connection with change in their functions or

duties. However, the City would be required to consider the use of car sharing with respect to such vehicles.

New subdivision d would require that the Mayor submit annual reports on the car sharing program and reductions in the City fleet from February 1, 2017 through February 1, 2021. The reports would be required to include, at a minimum: (1) an evaluation of the car sharing program; (2) recommendations for the car sharing program; (3) data on the use of car sharing, disaggregated by City agency; (4) if applicable, utilization of services of car sharing organizations; (5) the impact of the car sharing program on expenses related to the City fleet; and (6) number of motor vehicles removed from the City fleet. The final report submitted would also need to include an evaluation of the size of the City fleet and any recommendations for further reducing the size of the fleet.

Section two of Int. No. 597-A states that the local law would take effect immediately.

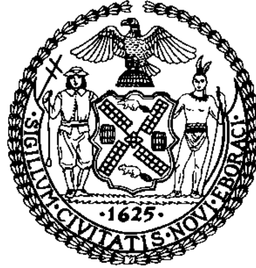
UPDATE

On April 15, 2015, the Committee on Transportation passed Int. No. 597-A by a vote of thirteen in the affirmative and zero in the negative, with zero abstentions.

[1] N.Y.C. Department of Citywide Administrative Services, NYC Fleet, http://www.nyc.gov/html/dcas/html/employees/fleet.shtml (*last accessed* Feb. 5, 2015).
[2] N.Y.C. Department of Citywide Administrative Services, *NYC Fleet Newsletter*, Dec. 18, 2014, *available at* http://www.nyc.gov/html/dcas/downloads/pdf/fleet/nyc_fleet_newsletter_12_18_2014.pdf.
[3] *Id.*
[4] *Id.*
[5] N.Y.C. Department of Citywide Administrative Services, *supra* note 1.
[6] *Id.*
[7] City of New York, *Fleet Management Manual* 3 (Feb. 2014), *available at* http://www.nyc.gov/html/dcas/downloads/pdf/fleet/fleet_NYC_fleet_management_manual.pdf.
[8] Executive Order No. 161, Apr. 23, 2012, *available at* http://www.nyc.gov/html/records/pdf/executive_orders/2012EO161.pdf.
[9] *Id.*
[1]0 City of New York, *supra* note 7.
[1]1 N.Y.C. Department of Citywide Administrative Services, *Benefits of hybrid gas-electric vehicles* (Jun. 2014), *available at* http://www.nyc.gov/html/dcas/downloads/pdf/fleet/nyc_fleet_hybrid_report_june_2014.pdf.
[1]2 Thi Dao, *A United Fleet: How NYC is Saving $415 Million in Fleet Costs*, May 2014, GOVERNMENT FLEET, *available at* http://www.government-fleet.com/article/story/2014/05/a-united-fleet-how-nyc-is-saving-415m-in-fleet-costs.aspx.
[1]3 *Id.*
[1]4 Michael Grass, *How Big Cities Are Saving Big Bucks With Car Sharing*, Jul. 9, 2014, Government Executive, *available at* http://www.govexec.com/state-local/2014/07/car-sharing-chicago-zipcar-indianapolis-blueindy/88141/.
[1]5 *Id.*
[1]6 San Francisco Environmental Code § 403.
[1]7 Noah Kazis, *50 DOT Fleet Vehicles Replaced By 25 Zipcars,* Oct. 13, 2010, Streetsblog, http://www.streetsblog.org/2010/10/13/50-dot-fleet-vehicles-replaced-by-25-zipcars/.
[1]8 City of New York, Press Release, *Mayor Bloomberg, Deputy Mayor Goldsmith, Commissioner Sadik-khan Announce Start of City's First Car Share Program,* Oct. 12, 2010, *available at* http://www1.nyc.gov/office-of-the-mayor/news/429-10/mayor-bloomberg-deputy-mayor-goldsmith-commissioner-sadik-khan-start-city-s-first-car.

[19] N.Y.C. Department of Citywide Administrative Services, Zipcar, http://www.nyc.gov/html/dcas/html/employees/zipcar.shtml (*last accessed* Aug. 8, 2014).

(The following is the text of the Fiscal Impact Statement for Int. No. 597-A:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO.: 597-A

COMMITTEE: Transportation

TITLE: A local law to amend the administrative code of the city of New York, in relation to car sharing in the city fleet.

SPONSOR(S): Council Members Torres, Arroyo and Johnson

SUMMARY OF LEGISLATION: Currently, as part of its municipal fleet, the City owns and operates nearly 27,000 vehicles costing an estimated $700 million annually. Of that number, approximately 3,500 are considered “light-duty, non-emergency” vehicles that are primarily used to transport City employees. This bill would require the City to establish a car sharing program with the goal of reducing the size of the City’s light-duty motor vehicles fleet by at least two percent each year, beginning January 1, 2016 through December 31, 2019 and by one percent in 2020, for a total reduction of nine percent. In addition, the bill would require the Administration to submit an annual report to the Comptroller and the Speaker of the Council regarding the car sharing program and reductions in the City’s fleet during the immediately preceding calendar year through February 1, 2021. The first report would be due no later than February 1, 2017. The final report, due February 1, 2021, would be required to include an evaluation of the size of the City’s fleet and recommendations for future reductions.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2021

FISCAL IMPACT STATEMENT:

	Effective FY15	FY Succeeding Effective FY16	Full Fiscal Impact FY21
Revenues	**$0**	**$0**	**$0**
Expenditures	**$0**	**($182,000)**	**($790,400)**
Net	**$0**	**($182,000)**	**($790,400)**

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

IMPACT ON EXPENDITURES: The Administration would use existing resource to implement this legislation and it is anticipated that the full implementation of the bill would result in costs savings to the City. Although, the Department of Citywide Administrative Services (DCAS) has yet to make a final determination on how best to implement the bill (in-house fleet share vs. private fleet share programs), it can be estimated that the City will, on average, achieve a savings of approximately $2,600 per vehicle that is replaced with a car/fleet share. As such, it is estimated that when fully implemented at nine percent of the City's light-duty motor vehicles, the enactment of this legislation would result in an annual expenditure savings of approximately $790,000 beginning in Fiscal 2021. For Fiscal 2015, there is no savings anticipated. This is because the bill becomes effective a few weeks before the end of the fiscal year. For Fiscal 2016, the savings would be $182,000, which would increase to $361,400 in Fiscal 2017 at four percent savings and reach $790,400 by Fiscal 2021.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: New York City General Fund

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

ESTIMATE PREPARED BY: Chima Obichere, Unit Head, New York City Council Finance Division

ESTIMATED REVIEWED BY: Nathan Toth, Deputy Director, New York City Council Finance Division
Rebecca Chasan, Assistant Counsel, New York City Council Finance Division

Tanisha Edwards, Chief Counsel, New York City Council Finance Division

LEGISLATIVE HISTORY: Intro. No. 597 was introduced to the Council on December 17, 2014 and referred to the Committee on Transportation. The Committee on Transportation held a hearing on Intro. No. 597 on February 10, 2015 and the legislation was laid over. Intro. No. 597 was subsequently amended, and the amended version, Proposed Intro. No. 597-A, will be voted on by the Committee on Transportation on April 15, 2015. Upon successful vote by the Committee, Proposed Intro. No. 597-A will be submitted to the full Council for a vote on April 16, 2015.

DATE PREPARED: April 13, 2015

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 597-A:)

Int. No. 597-A

By Council Members Torres, Arroyo, Johnson, Van Bramer, Constantinides and Kallos.

A Local Law to amend the administrative code of the city of New York, in relation to car sharing in the city fleet.

Be it enacted by the Council as follows:

Section 1. Chapter one of title 6 of the administrative code of the city of New York is amended by adding a new section 6-140 to read as follows:

§ 6-140 Car sharing in the city fleet. a. For the purposes of this section, the following terms shall have the following meanings:

(1) "Car sharing" means a shared-use motor vehicle program that provides a geographically distributed fleet of motor vehicles that is made available to entities or persons on an hourly or short-term basis, or provides technology that enables the city to share internally its city-owned or leased vehicles.

(2) "Car sharing organization" means an organization that provides pre-approved members with access to motor vehicles at geographically distributed locations for an hourly or short-term rate that includes fuel, maintenance, and insurance, or provides technology and services that enable the city to share internally its city-owned or leased vehicles.

(3) "City agency" means a city, county, borough, administration, department, division, bureau, board or commission, or a corporation, institution, or agency of government, the expenses of which are paid in whole or in part from the city treasury.

(4) "Motor vehicle" means a vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except electrically-driven mobility assistance devices operated or driven by a person with a disability. For the purposes of this section, such term shall not include vehicles that are used for emergency response, inspection or enforcement by agencies including, but not limited to, the department of environmental protection, the department of sanitation, the department of transportation, the office of emergency management, the sheriff's office of the department of finance, the police department, the fire department, and the department of correction.

(5) "Light-duty vehicle" means a motor vehicle that is a maximum of eighty-five hundred pounds in gross vehicle weight and includes sedans, utility vehicles, pick-up trucks and vans.

b. The city shall establish a car sharing program for city agencies utilizing light-duty motor vehicles.

c. Beginning January 1, 2016 and during each of the following three consecutive years thereafter through December 31, 2019, the city shall remove from service without replacement at least two percent of the total existing number of light-duty motor vehicles in the city fleet through the use of strategies including, but not limited to, car sharing. For the year beginning January 1, 2020, the city shall remove from service without replacement at least one percent of the total existing number of light-duty motor vehicles in the city fleet through the use of strategies including, but not limited to, car sharing. This subdivision shall not apply to light-duty motor vehicles that have been added to any individual city agency's fleet in connection with a proportional increase in such agency's headcount resulting from programmatic or operational changes in such agency's functions or duties, provided that the city shall consider the use of such strategies including, but not limited to, car sharing with respect to such light-duty motor vehicles.

d. No later than February 1, 2017 and no later than every February 1 thereafter through February 1, 2021, the mayor shall submit to the comptroller and the speaker of the council a report regarding the car sharing program and reductions in the city fleet during the immediately preceding calendar year. Such reports shall include, but not be limited to: (1) an evaluation of such car sharing program; (2) recommendations, if any, for changing any component(s) of such car sharing program; (3) data regarding the use of car sharing, disaggregated by city agency; (4) the utilization of services of car sharing organizations, if applicable; (5) the impact of such car sharing program on expenses related to the city fleet; and (6) the number and percentage of motor vehicles removed from the city fleet since the inception of such car sharing program and, if applicable, the number and percentage of motor vehicles removed in the preceding twelve months. In addition, the report due no later than February 1, 2021 shall contain an evaluation of the size of the city fleet and recommendations, if any, for further reducing the size of such fleet.

§ 2. This local law shall take effect immediately.

YDANIS A. RODRIGUEZ, *Chairperson*; DANIEL R. GARODNICK, JAMES VACCA, MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, JAMES G. VAN BRAMER, MARK S. WEPRIN, DAVID G. GREENFIELD, COSTA G. CONSTANTINIDES, CARLOS MENCHACA, I. DANEEK MILLER, ANTONIO REYNOSO; Committee on Transportation, April 15, 2015. *Other Council Members Attending: Lander and Treyger.*

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

GENERAL ORDER CALENDAR

Resolution approving various persons Commissioners of Deeds

By the Presiding Officer –

Resolved, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

Approved New Applicant's Report

Name	Address	District #
John A. Fratta	77 Fulton Street #27L New York, N.Y. 10038	1
Maurice Samuel Pianko, Esq.	30 Broad Street 414th Floor New York, N.Y. 10004	1
Lakisha M. Crawford	208 West 119th Street #4D New York, N.Y. 10026	1
Harriet Lasky	140 Benchley Place #28H Bronx, N.Y. 10475	12
Albert Dangelo	1939 Lurting Avenue Bronx, N.Y. 10461	13
Andrea B. Siegel	780 Pelham Parkway South 4C11 Bronx, N.Y. 10462	13
Jeremy Warneke	2186 Paulding Avenue 41 Bronx, N.Y. 10462	13
Eugene M. Funk	130-09 Lefferts Blvd South Ozone Park, N.Y. 11420	32
Daisy A. James	1092 President Street #5	35

	Brooklyn, N.Y. 11225	
Tetyana Niko layevska	6713 6th Avenue #3R Brooklyn, N.Y. 11220	43
Robert Zirpoli	1567 Independence Avenue #1 Brooklyn, N.Y. 11228	43
Sheri Kai	1615 East 10th Street #1F Brooklyn, N.Y. 11223	44
Pelham G. Naidu	1674 East 49th Street Brooklyn, N.Y. 11234	46
Michael Saccenti	14 Acacia Avenue Staten Island, N.Y. 10308	51

Approved New Applicants and Reapplicants

Name	Address	District #
Polly Schonfeld	63 Avenue A #19H New York, N.Y. 10009	2
Diana P. Murray	525 East 14th Street #1F New York, N.Y. 10009	4
Louiselle Romero	1646 First Avenue #12E New York, N.Y. 10028	5
John A. Devlin	205 West 95th Street #1A New York, N.Y. 10025	6
Julie Leung	65 West 90th Street New York, N.Y. 10024	6
Gloria Quinones	217 West 62nd Street New York, N.Y. 10023	6
Florinda Laford	101 West 109th Street #4J New York, N.Y. 10025	7
Kimberlee T. Myers	210 East 124th Street #5C New York, N.Y. 10035	8
Gamalier M. Silva	420 East 146th Street #308 Bronx, N.Y. 10455	8
Ivy Soto	325 Pleasant Avenue #3A New York, N.Y. 10035	8
Linda Fay McCoy	410 St. Nicholas Avenue #23J New York, N.Y. 10027	9
Noemi Aviles	97 Arden Street #3L New York, N.Y. 10040	10
Maritza Mejias	3162 Bainbridge Avenue #4B Bronx, N.Y. 10467	11

Judith Arlene Schultz	3400 A Paul Avenue #13G Bronx, N.Y. 10468	11
Bianca Williams	3844 Bailey Avenue #GC Bronx, N.Y. 10463	11
Ruth Brantley	140 Erdman Place #14D Bronx, N.Y. 10475	12
Darla A. Starks	120 Debs Place #23F Bronx, N.Y. 10475	12
Johnny Lopez	532 Logan Avenue #1 Bronx, N.Y. 10465	13
Aida Luz Colon	2745 Reservoir Avenue #6C Bronx, N.Y. 10468	14
Jacie Depaulis	2230 Andrews Avenue Bronx, N.Y. 10453	14
Nubia Imani-Beazer	7 Fordham Hill Oval #5C Bronx, N.Y. 10468	14
Edwina Maria Townes	785 East 181st Street #21 Bronx, N.Y. 10460	15
Ruth Roj as-Duarte	827 Fox Street #2A Bronx, N.Y. 10459	17
Yolanda L. Taylor	1315 Prospect Avenue 44C Bronx, N.Y. 10459	17
Eleni Patras	154-01 9th Avenue #1L Queens, N.Y. 11357	19
Michael Rodamis	33-22 Jordan Street Queens, N.Y. 11358	19
Harold Rodriguez	58-16 Lawrence Street Flushing, N.Y. 11355	20
Shirley Stevens	97-28 57th Avenue #1 1D Rego Park, N.Y. 11368	21
Joyce West	96-15 Jackson Mill Road East Elmhurst, N.Y. 11369	21
Enedia Braka	26-18 18th Street Astoria, N.Y. 11102	22
Tracy N. Dash	179-59 Anderson Road Jamaica, N.Y. 11434	27
Ruby Kirk-Yates	89-19 171st Street #6W Jamaica, N.Y. 11432	27
Teresa Martin	104-26 199th Street Queens, N.Y. 11412	27
Renee R. Wilson	102-28 127th Street	28

	Queens, N.Y. 11419	
Walter E. Clayton Jr.	68-60 76th Street	30
	Queens, N.Y. 11379	
Emil Cohill	50-23 59th Place	30
	Woodside, N.Y. 11377	
Doris V. Ortiz	361 Grandview Avenue #1	30
	Ridgewood, N.Y. 11385	
Phyllis Connors	144-33 231st Street	31
	Rosedale, N.Y. 11413	
Delia Fields	220-43 135th Avenue	31
	Queens, N.Y. 11413	
Brazeyl Readon	243-50 Mayda Road	31
	Rosedale, N.Y. 11422	
Marie Souffrant-Santiago	241-31 128th Drive	31
	Queens, N.Y. 11422	
Lynette Aguayo	5 Ten Eyck Street #3	34
	Brooklyn, N.Y. 11206	
Hector J. Gonzalez	1065 Seneca Avenue	34
	Ridgewood, N.Y. 11385	
Maria E. Vega	30 Montrose Avenue #8S	34
	Brooklyn, N.Y. 11206	
Gertrude Dipmore	1030 Carroll Street #3C	35
	Brooklyn, N.Y. 11225	
Andrew Toney	213 Herzl Street	41
	Brooklyn, N.Y. 11212	
Farrah Brown	406 Hinsdale Street	42
	Brooklyn, N.Y. 11207	
Lavon Burch	966 Hegeman Avenue #2	42
	Brooklyn, N.Y. 11208	
Goldia A. Marshall	586 Egan Street	42
	Brooklyn, N.Y. 11239	
Lucille Carletta	8215 11th Avenue	43
	Brooklyn, N.Y. 11228	
Edith M. Gugliemelli	1336 85th Street	43
	Brooklyn, N.Y. 11228	
Julia Gartvich	7000 Bay Parkway #60	44
	Brooklyn, N.Y. 11204	
John Youssef	114 Avenue F	44
	Brooklyn, N.Y. 11218	
Suzan N. Pack	1556 Schenectady Avenue	45
	Brooklyn, N.Y. 11234	

Stuart M. Feuerstein	1247 East 66th Street Brooklyn, N.Y. 11234	46
Sofiya Oksenkurg	2547 West 2nd Street Brooklyn, N.Y. 11223	47
Yuliya Blokhina	159 Corbin Place Brooklyn, N.Y. 11235	48
Alla Gurevich	2560 Batchelder Street #2K Brooklyn, N.Y. 11235	48
Mary Ann Marando	2292 East 24th Street Brooklyn, N.Y. 11229	48
Stephen Moran	3712 Shore Parkway Brooklyn, N.Y. 11235	48
Larisa Prizimenter	1925 Quentin Road #3D Brooklyn, N.Y. 11229	48
Vivian SiFontes	2538 East 12th Street Brooklyn, N.Y. 11235	48
Monique A. Debs-Fonte	65 Benedict Avenue Staten Island, N.Y. 10314	49
Sara DiStefano	170 Benziger Avenue #1 Staten Island, N.Y. 10301	49
Eugene Kazakevich	578 Dogan Hills Avenue Staten Island, N.Y. 10305	50
James P. Molinaro	85 Lyman Avenue Staten Island, N.Y. 10305	50
Sandra Stimell	234 Amsterdam Avenue Staten Island, N.Y. 10314	50
Laurie Warren-Guido	87 Cloister Place Staten Island, N.Y. 10306	50
Joseph Benvenuto	184 Richmond Hill Road Staten Island, N.Y. 10314	51
Rebecca Ho	60 Heinz Avenue Staten Island, N.Y. 10308	51
Danielle Panza	65 Fraser Street Staten Island, N.Y.10314	51
Debra Thives	15 Wildwood Lane Staten Island, N.Y. 10307	51

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

ROLL CALL ON GENERAL ORDERS FOR THE DAY
(Items Coupled on General Order Calendar)

(1)	**Int 211-A** -	Bus rapid transit plan.
(2)	**Int 261-A -**	Prohibiting discrimination based on consumer credit history.
(3)	**Int 271-A** -	Air pollution control code.
(4)	**Int 555-A** -	Senior citizen rent increase exemption program and the disability rent increase exemption program.
(5)	**Int 597-A -**	Car sharing in the city fleet.
(6)	**Int 681**-	Meatpacking Area business improvement district.
(7)	**Int 727 -**	Real property damaged by Hurricane Sandy.
(8)	**Int 747** -	Mayor's Executive Budget.
(9)	**L.U. 195 & Res 659 -**	App. **20155355 TCM,** 002 Mercury Tacos, LLC, d/b/a Otto's Tacos, sidewalk café, Manhattan, Community Board 2, Council District 3.
(10)	**L.U. 196 & Res 660 -**	App. **20155377 TCM,** Innovation Kitchens LLC., d/b/a Dominique Ansel Kitchen, sidewalk café, Manhattan, Community Board 2, Council District 3.
(11)	**L.U. 202 & Res 661 -**	App. **C 140209 ZSK,** Zoning Resolution, Brooklyn, Community District 13.
(12)	**L.U. 203 & Res 662 -**	App. **20155443 HAK,** Real Property Tax Exemption, Brooklyn, Community Boards 2 and 6, Council Districts 33 and 39.
(13)	**L.U. 204 & Res 663 -**	App. **20155444 HAM,** Real Property Tax Exemption, Manhattan, Community Board 10, Council District 9.
(14)	**L.U. 206 & Res 657 -**	Lands End I, Manhattan, Community District No. 3, Council District No. 1.
(15)	**L.U. 207 & Res 658** -	Penn South, Manhattan, Community District No. 4, Council District No. 3.

(16) Resolution approving various persons Commissioners of Deeds.

The Deputy Leader (Council Member Gentile) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

Affirmative – Arroyo, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dickens, Dromm, Espinal, Eugene, Ferreras, Garodnick, Gentile, Gibson, Greenfield, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Matteo, Mealy, Menchaca, Mendez, Miller, Palma, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Ulrich, Vacca, Vallone, Weprin, Williams, Ignizio, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **50**.

The General Order vote recorded for this Stated Meeting was 50-0-0 as shown above with the exception of the votes for the following legislative items:

The following was the vote recorded for **Int No. 211-A**:

Affirmative – Arroyo, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dickens, Dromm, Espinal, Eugene, Ferreras, Garodnick, Gentile, Gibson, Greenfield, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Matteo, Mealy, Menchaca, Mendez, Palma, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Ulrich, Vacca, Vallone, Weprin, Williams, Ignizio, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **49**.

Negative – Miller **– 1.**

The following was the vote recorded for **Int No. 261-A:**

Affirmative – Arroyo, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dickens, Dromm, Espinal, Eugene, Ferreras, Garodnick, Gentile, Gibson, Greenfield, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Miller, Palma, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Vacca, Vallone, Williams, Ignizio, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **47**.

Negative – Matteo, Ulrich, and Weprin – **3**.,

The following was the vote recorded for **Int No. 271-A**:

Affirmative – Arroyo, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dickens, Dromm, Espinal, Eugene, Ferreras, Garodnick, Gentile, Gibson, Greenfield, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Miller, Palma, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Torres, Treyger, Ulrich, Vacca, Vallone, Weprin, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **48**.

Negative – Matteo and Ignizio – **2**.

The following Introductions were sent to the Mayor for his consideration and approval: Int Nos. 211-A, 261-A, 271-A, 433-A, 555-A, 597-A, 681, 727, and 747.

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. 533-A

Report of the Committee on Civil Service and Labor in favor of approving, as amended, a Resolution calling upon the United States Congress to pass, and the President to sign the James Zadroga 9/11 Health and Compensation Reauthorization Act.

The Committee on Civil Service and Labor, to which the annexed amended resolution was referred on November 13, 2014 (Minutes, page 3925), respectfully

REPORTS:

INTRODUCTION

On April 1, 2015 the Committee on Civil Service and Labor will hold a second hearing on Proposed Res. No. 533-A, which calls upon the United States Congress to pass, and the President to sign the James Zadroga 9/11 Health and Compensation

Reauthorization Act (the "Zadroga Act"). During the 2010-2013 Session, the Council adopted Res. No. 541-2010 and Res. No. 1024-2011, calling upon the United States Congress to adopt the Zadroga Act. The resolution being considered would call on the United States Congress to re-authorize the Zadroga Act, and ensure renewal of the World Trade Center Health Program and the September 11th Victim Compensation Fund, which are scheduled to expire in October 2015 and October 2016, respectively. This is the second hearing on this Resolution. The first hearing was held on March 30, 2015 and the Committee heard testimony in support of the Resolution from representatives of elected officials, Community Board 1 of Manhattan and organized labor.

Since the first hearing, a minor technical amendment was made to the Resolution.

PROPOSED RES. NO. 533-A

Proposed Res. No. 533-A would state that the Nation remembers the 2,977 people who were killed on 9/11 in New York City, the Pentagon, and Shanksville, Pennsylvania; among them 343 members of the New York Fire Department, 23 members of the New York City Police Department, and 37 Port Authority officers. The Resolution would note that the Nation does not seem to know of the over 30,000 Americans who have been certified to suffer from at least one illnesses related to the 9/11 attacks and two thirds of those have more than one injury.

The Resolution would state that first responders in New York City are particularly hard hit. The Resolution would point out that more than 1,500 members of the New York City Fire Department (Firefighters and EMS workers) and more than 550 members of the Police Department have had to leave their jobs because of their disabling 9/11 related illnesses that were severe enough to be granted a WTC disability pension.

The Resolution would further note that over 3,600 Responders and Survivors have been certified with a 9/11 related cancer, of which over 950 are New York City Fire Department Personal (Firefighters and EMS workers). The Resolution would argue that more than 90 members of the New York City Fire Department (Firefighters and EMS workers) and more than 80 New York City Police Officers have died from their 9/11 injuries since 9/11, with more dying every month.

The Resolution would also state that while the majority of recipients live in the New York City area, many survivors and first responders of the 9/11 attacks live across the United States. The Resolution would also state that these individuals live in every State and in 429 out 435 Congressional districts across the county.

In addition, the Resolution would note that the 2010 James Zadroga 9/11 Health and Compensation Act was finally passed after years of delay by Washington to respond to the 9/11 Health Crisis. The Resolution would further state that the Act created the World Trade Center Health Program (the "Program"), which provides health treatment to people who worked or resided in the vicinity of the World Trade Center on and after the events of September 11, 2001.

The Resolution would also state that the Program is comprised of the "Responder Program" and the "Survivor Program."

The Resolution would also point out that the Responder Program provides medical treatment for 9/11 injuries and medical monitoring to the personnel who carried our rescue and recovery duties at the World Trade site and has over 60,000 participating in it. The Resolution would state that the Survivor Program provides services to individuals who lived, worked or went to school around the World Trade Center site and over 7,500 survivors who are injured are getting treatment for their 9/11 injuries.

The Resolution would further state that in addition to authorizing the World Trade Center Health Program, the legislation will also reopen the September 11th Victim Compensation Fund ("VCF"). The Resolution would state that the September 11th Victim Compensation Fund is now compensating injured and ill 9/11 responders, survivors and their surviving families for economic losses related to their injuries. The Resolution would also point out that the The 9/11 Health and Compensation Act expires this Congress. And the Resolution would further note that the World Trade Center Health Program and the September 11th Victim Compensation Fund are scheduled to expire in October 2015 and October 2016, respectively.

The Resolution would also state that Congress members Carolyn Maloney, Jerold Nadler and Peter King and United States Senators Kirsten E. Gillibrand and Charles Schumer will be reintroducing legislation, which would reauthorize the James Zadroga 9/11 Health and Compensation Act (the "Zadroga Act"). The would also state that unless Congress acts to reauthorize the Zadroga Act thousands of injured and ill 9/11 responders and survivors are at risk of losing crucial health care.

Finally, Proposed Res. No. 533-A, would call upon the United States Congress to pass, and the President to sign the James Zadroga 9/11 Health and Compensation Reauthorization Act.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Res. No. 533-A:)

Res. No. 533-A

Resolution calling upon the United States Congress to pass, and the President to sign the James Zadroga 9/11 Health and Compensation Reauthorization Act.

By Council Members Chin, The Speaker (Council Member Mark-Viverito), Vallone, Miller, Cohen, Constantinides, Eugene, Gentile, Gibson, Johnson, Koo, Lander, Levine, Mendez, Richards, Rodriguez, Rose, Wills, Levin, Dromm, Kallos, Rosenthal and Ulrich

Whereas, The Nation remembers the 2,977 people who were killed on 9/11 in New York City, the Pentagon, and Shanksville, Pennsylvania; among them 343 members of the New York Fire Department, 23 members of the New York City Police Department, and 37 Port Authority officers; and

Whereas, The Nation does not seem to know of the over 30,000 Americans who have been certified to suffer from at least one illnesses related to the 9/11 attacks and two thirds of those have more than one injury; and

Whereas, First responders in New York City are particularly hard hit; and

Whereas, More than 1,500 members of the New York City Fire Department (Firefighters and EMS workers) and more than 550 members of the Police Department have had to leave their jobs because of their disabling 9/11 related illnesses that were severe enough to be granted a WTC disability pension; and

Whereas, Over 3,600 Responders and Survivors have been certified with a 9/11 related cancer, of which over 950 are New York City Fire Department Personal (Firefighters and EMS workers); and

Whereas, More than 90 members of the New York City Fire Department (Firefighters and EMS workers) and more than 80 New York City Police Officers have died from their 9/11 injuries since 9/11, with more dying every month; and

Whereas, While the majority of recipients live in the New York City area, many survivors and first responders of the 9/11 attacks live across the United States; and

Whereas, These individuals live in every State and in 429 out 435 Congressional districts across the county; and

Whereas, The 2010 James Zadroga 9/11 Health and Compensation Act was finally passed after years of delay by Washington to respond to the 9/11 Health Crisis, and

Whereas, The Act created the World Trade Center Health Program (the "Program"), which provides health treatment to people who worked or resided in the vicinity of the World Trade Center on and after the events of September 11, 2001; and

Whereas, The Program is comprised of the "Responder Program" and the "Survivor Program"; and

Whereas, The Responder Program provides medical treatment for 9/11 injuries and medical monitoring to the personnel who carried our rescue and recovery duties at the World Trade site and has over 60,000 participating in it; and

Whereas, The Survivor Program provides services to individuals who lived, worked or went to school around the World Trade Center site and over 7,500 survivors who are injured are getting treatment for their 9/11 injuries; and

Whereas, In addition to authorizing the World Trade Center Health Program, the legislation will also reopen the September 11th Victim Compensation Fund ("VCF"); and

Whereas, The September 11th Victim Compensation Fund is now compensating injured and ill 9/11 responders, survivors and their surviving families for economic losses related to their injuries; and

Whereas, The 9/11 Health and Compensation Act expires this Congress; and

Whereas, The World Trade Center Health Program and the September 11th Victim Compensation Fund are scheduled to expire in October 2015 and October 2016, respectively; and

Whereas, Congress members Carolyn Maloney, Jerold Nadler and Peter King and United States Senators Kirsten E. Gillibrand and Charles Schumer will be reintroducing legislation, which would reauthorize the James Zadroga 9/11 Health and Compensation Act (the "Zadroga Act"); and

Whereas, Unless Congress acts to reauthorize the Zadroga Act thousands of injured and ill 9/11 responders and survivors are at risk of losing crucial health care; 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 James Zadroga 9/11 Health and Compensation Reauthorization Act.

I. DANEEK MILLER, *Chairperson*; ELIZABETH S. CROWLEY, DANIEL DROMM, COSTA G. CONSTANTINIDES, ROBERT E. CORNEGY, Jr.; Committee on Civil Service and Labor, April 1, 2015. *Other Council Members Attending: The Speaker (Council Member Mark-Viverito) and Ferreras, Rodriguez, Ignizio, Gibson, Rosenthal, Levine, Johnson, Cumbo and Van Bramer*

Pursuant to Rule 8.50 of the Council, the Deputy Leader (Council Member Gentile) called for a voice vote. Hearing those in favor, the Deputy Leader (Council Member Gentile) declared the Resolution to be adopted.

Adopted unanimously by voice-vote.

Report for voice-vote Res. No. 637

Report of the Committee on Land Use in favor of approving a Resolution commemorating the 50th anniversary of the signing of the New York City Landmarks Law.

The Committee on Land Use, to which the annexed resolution was referred on March 31, 2015 (Minutes, page 1000), respectfully

REPORTS:

Introduction

On April 15, 2015, the Committee on Land Use, chaired by Council Member David Greenfield, will hold a hearing on Res. No. 637, a resolution commemorating the 50th anniversary of the signing of the New York City Landmarks Law.

Res. No. 637

Res. No. 637 would commemorate the 50th anniversary of the signing of the New York City Landmarks Law. The resolution would indicate that on April 19, 1965 Mayor Robert Wagner signed the New York City Landmarks Law granting the New

York City Landmarks Preservation Commission (LPC) authority to preserve significant historic buildings in the city.

Res. No. 637 would note that the creation of the LPC was a response to the public outcry over the loss of the architecturally and historically significant buildings throughout New York City. The resolution would highlight that New York is a unique, world-class, international city composed of people from around the globe and its architecture and other structures reflect the beauty, power, and diversity of its people. The resolution would acknowledge that the mandate of the LPC is to identify and designate those improvements, districts, and landscape features within the city that must be preserved because of their special character or special historical or aesthetic value.

The resolution would further note that under the Landmarks Law, the purpose preservation is to safeguard the city's special historic, aesthetic, and cultural heritage; stabilize and improve property values in historic districts; encourage civic pride in the beauty and accomplishments of the past; protect and enhance the city's attractions for tourists; strengthen the city's economy; and promote the use of the city's landmarks for the education, pleasure, and welfare of the people of the city.

The resolution would indicate that to date, the LPC has preserved more than 31,000 properties through designation of 1338 landmarks, 115 interior landmarks, 10 scenic landmarks, and 111 historic districts, in addition to reviewing countless applications for development, construction, and improvement of landmarked buildings and on property within historic districts in order to preserve the character of these buildings and districts. The resolution would further point out that the preservation of these buildings, interiors, and districts has greatly enriched the City for the past 50 years, and will continue to protect the unique identity of New York City into the future. The resolution would note that the New York City Landmarks Law and the LPC helped to usher in an era of landmarks preservation nationwide.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 637:)

Res. No. 637

Resolution commemorating the 50th anniversary of the signing of the New York City Landmarks Law.

By Council Members Koo, Dromm, Johnson, Lander, Mendez, Menchaca, Gentile, Levin, Kallos, Wills, Rosenthal, Williams, Weprin, Garodnick, Dickens and Mealy.

Whereas, On April 19, 1965 Mayor Robert Wagner signed the New York City Landmarks Law granting the New York City Landmarks Preservation Commission authority to preserve significant historic buildings in the city; and

Whereas, The Landmarks Law and the Preservation Commission were a response to the public outcry over the loss of the architecturally and historically significant buildings throughout New York City; and

Whereas, Historically and architecturally significant buildings often serve as symbols that identify a place and the cultural beliefs or values of its people; and

Whereas, New York is a unique, world-class, international city composed of people from around the globe; and

Whereas, The architecture and other structures of New York City reflect the beauty, power, and diversity of its people; and

Whereas, The mandate of the New York City Landmarks Preservation Commission, established by the passage of the Landmarks Law, is to identify and designate those improvements, districts, and landscape features within the city that must be preserved because of their special character or special historical or aesthetic value; and

Whereas, Under the Landmarks Law, the purpose of such preservation is to safeguard the city's special historic, aesthetic, and cultural heritage; stabilize and improve property values in historic districts; encourage civic pride in the beauty and accomplishments of the past; protect and enhance the city's attractions for tourists; strengthen the city's economy; and promote the use of the city's landmarks for the education, pleasure, and welfare of the people of the city; and

Whereas, To date, the New York City Landmarks Preservation Commission has preserved more than 31,000 properties through designation of 1338 landmarks, 115 interior landmarks, 10 scenic landmarks, and 111 historic districts; and

Whereas, The Landmarks Preservation Commission has reviewed countless applications for development, construction, and improvement of landmarked buildings and on property within historic districts in order to preserve the character of these buildings and districts; and

Whereas, The preservation of these buildings, interiors, and districts has greatly enriched the City for the past 50 years, and will continue to protect the unique identity of New York City into the future; and

Whereas, The New York City Landmarks Law and Landmarks Preservation Commission helped to usher in an era of landmarks preservation nationwide; now, therefore, be it

Resolved, That the Council of the City of New York commemorates the 50th anniversary of the signing of the New York City Landmarks Law.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, MARIA del CARMEN ARROYO, DANIEL R. GARODNICK, DARLENE MEALY, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, MARK S. WEPRIN, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; Committee on Land Use, April 15, 2015.

Pursuant to Rule 8.50 of the Council, the Deputy Leader (Council Member Gentile) called for a voice vote. Hearing those in favor, the Deputy Leader (Council Member Gentile) declared the Resolution to be adopted.

The following 2 Council Members formally voted against this item: Council Members Matteo and Ignizio.

Adopted by the Council by voice-vote.

INTRODUCTION AND READING OF BILLS

Int. No. 743

By The Speaker (Council Member Mark-Viverito) and Council Members Lancman, Johnson, Levin, Ferreras, Miller, Arroyo, Cabrera, Chin, Constantinides, Dromm, Eugene, Gibson, Koo, Koslowitz, Palma, Richards, Cohen, Rodriguez and Rosenthal.

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the establishment of an office of labor standards

Be it enacted by the Council as follows:

Section 1. Chapter one of the New York city charter is amended to add a new section 20-a as follows:

*§ 20-a. **Office of Labor Standards**. a. The mayor shall establish an office of labor standards. Such office may, but need not, be established in the executive office of the mayor and may be established as a separate office or within any other office of the mayor or within any department the head of which is appointed by the mayor. Such office shall be headed by a director who shall be appointed by the mayor or head of such department.*

b. The director shall:

(i) plan, make recommendations, conduct research and develop programs for worker education, worker safety and worker protection;

(ii) facilitate the exchange and dissemination of information in consultation with city agencies, federal and state officials, businesses, employees, and nonprofit organizations working in the field of worker education, safety, and protection;

(iii) provide educational materials to employers and develop programs, including administrative support, to assist employers to comply with labor laws;

(iv) implement public education campaigns to heighten awareness of employee rights under federal, state, and local law;

(v) collect and analyze available federal, state, and local data on the city's workforce and workplaces to identify gaps and prioritize areas for the improvement of working conditions for employees in the city and the improvement of conditions and practices within particular industries; and

(vi) recommend efforts to achieve workplace equity for women, communities of color, immigrants and refugees, and other vulnerable workers.

c. Notwithstanding any other provisions of law, rules or regulations, the director shall have the power to enforce chapters 8 and 9 of title 20 of the administrative code.

d. The director shall possess such powers in addition to any other powers that may be assigned to him or her, pursuant to any other provision of law, by the mayor or head of such department wherein the office has been established.

§ 2. Chapter one of title 3 of the administrative code of the city of New York is amended by adding a new subchapter 4 to read as follows:

SUBCHAPTER 4
OFFICE OF LABOR STANDARDS

§ 3-140 ***Office of Labor Standards****. a. For purposes of this section, "director" means the director of the office of labor standards.*

b. The director shall have all powers as set forth in chapter 8 of title 20 of the code relating to the receipt, investigation, and resolution of complaints thereunder regarding earned sick time and the power to enforce chapter 9 of title 20 of the code regarding mass transit benefits.

c. The director, in the performance of his or her functions, powers and duties, including but not limited to those functions, powers and duties pursuant to subdivision b of this section, shall be authorized to conduct investigations, hold public and private hearings, administer oaths, take testimony, serve subpoenas, receive evidence, render decisions and orders, and to receive, administer, pay over and distribute monies collected in and as a result of actions brought for violations of any law the director is empowered to enforce. The director shall have the power to promulgate, amend and modify rules necessary to carry out such functions, powers, and duties.

d. 1. The director shall be authorized, upon due notice and hearing, and to the extent permitted by law, to render decisions and orders, including the power to impose civil penalties, and to order equitable relief or the payment of monetary damages for the violation of any rules, regulations or laws the director is empowered to enforce pursuant to section 20-a of the charter, the provisions of this

subchapter of the code or any other general, special or local law. If the mayor determines to establish the office of labor standards within an agency, all actions and proceedings authorized pursuant to this subdivision shall be conducted in accordance with rules promulgated by the commissioner of such agency. The remedies or penalties provided for in this subdivision shall be in addition to any other remedies or penalties provided by law for the enforcement of such provisions.

2. All such actions or proceedings shall be commenced by the service of a notice of violation. The director shall prescribe the form and wording of such notices. The notice of violation or copy thereof when filled in and served shall constitute notice of the violation charged, and if sworn and affirmed, shall be prima facie evidence of the facts contained therein.

3. The office of administrative trials and hearings may exercise all adjudicatory powers conferred upon the director by the charter, the code, or any other general, special or local law consistent with chapter 45-A of the charter.

e. No later than February 15, 2016, and no later than every February fifteenth thereafter, the director shall post on the office's website the following information for the prior calendar year:

i. the number of complaints against employers filed under chapter 8 of title 20 of the code, chapter 9 of title 20 of the code, and any other law the director is empowered to enforce, disaggregated by type of complaint;

ii. the number of investigations conducted by the director, disaggregated by the type of complaint;

iii. each enforcement action undertaken by the director, including the monetary value of any award or settlement, disaggregated by type of complaint; and

iv. other such information as the director may deem appropriate.

§ 3. Subdivision s of section 20-912 of the administrative code of the city of New York, as added by local law number 7 for the year 2014, is amended to read as follows:

s. "Department" shall mean [the department of consumer affairs or] *such office or* [other] agency as the mayor shall designate pursuant to [section 20-925 of this chapter] *section 20-a of the charter*.

§ 4. This local law shall take effect one hundred and twenty days after its enactment into law except that prior to such date, the designated office or department shall take such actions, including the promulgating of rules, as are necessary to implement the provisions of this local law.

Referred to the Committee on Civil Service and Labor.

Res. No. 648

Resolution recognizing this and every April as Organ Donation Awareness Month in the City of New York.

By Council Members Constantinides, Johnson, Arroyo, Chin, Cornegy, Dromm, Espinal, Gibson, Koo, Koslowitz, Palma, Cohen, Eugene, Rodriguez, Lander, Van Bramer, Kallos and Rosenthal.

Whereas, According to Donate Life America (DLA), an alliance of national organizations and state teams across the United States committed to increasing organ, eye and tissue donation, as of January 2015, nearly 124,000 people in the United States were awaiting organ transplants; and

Whereas, According to the U.S. Department of Health and Human Services (HHS), 21 people in the United States die each day waiting for an organ; and

Whereas, DLA and HHS each report that a single organ donor can save up to 8 lives and save or heal more than 100 lives through tissue donation; and

Whereas, According to the National Kidney Foundation, in the United States, every 5 minutes someone goes into kidney failure, and 25 million Americans have kidney disease; and

Whereas, HHS reports that there are 58 organ procurement organizations in the United States, responsible for both increasing the number of registered donors as well as coordinating the donation process when actual donors become available; and

Whereas, HHS also informs that the altruistic process of donation begins when people perform the simple act of indicating their consent to be a donor by enrolling in their state's donor registry; and

Whereas, According to DMV.ORG (DMV), an organ donation awareness organization not affiliated with the Department of Motor Vehicles, in New York State, every 13 hours another patient dies waiting for an organ transplant; and

Whereas, DMV also informs that in New York, a person can register as an organ donor in person, by mail, or online if he or she is at least 18 years old, and that person may indicate their desire to become a donor when they obtain or renew their driver's license or state ID card; and

Whereas, The New York Board of Elections also allows an individual to sign up as an organ donor when that person completes their voter registration form; and

Whereas, According to LiveOnNY, an organ donation association, more than 10,000 people are waiting for organ transplants in LiveOnNY's service area; and

Whereas, LiveOnNY serves 13 million people in the New York metropolitan area, which includes the five boroughs of New York City, Long Island, and the northern counties up to Poughkeepsie; and

Whereas, LiveOnNY reports that of the 10,000 persons waiting for organ transplants, more than 8,000 await kidneys, more than 1,300 need livers, and more than 300 need hearts; and

Whereas, It is important to raise awareness of the great need for organ donation; now, therefore, be it

Resolved, That the Council of the City of New York recognizes this and every April as Organ Donation Awareness Month in the City of New York.

Referred to the Committee on Health.

Int. No. 744

By Council Members Crowley, Dickens, Lancman and Miller.

A Local Law to amend the administrative code of the city of New York in relation to establishing a prevailing wage requirement for covered workers in financially assisted facilities.

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 6-139 to read as follows:

§ 6-139 Prevailing Wage for Certain Covered workers in Financially Assisted Facilities.

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

(1) "City development project" means a project undertaken by a city agency or a city economic development entity for the purpose of improvement or development of real property, economic development, job retention or growth, or other similar purposes where the project: (a) is expected to be larger than 50,000 square feet, or, in the case of a residential project, larger than 50 units; (b) has received or is expected to receive financial assistance; and (c) is not covered by a project labor agreement. A project will be considered a "city development project" for one year from completion of the construction, expansion, rehabilitation, or renovation of the city development project.

(2) "City economic development entity" means a not-for-profit organization, public benefit corporation, or other entity that provides or administers economic development benefits on behalf of the City pursuant to paragraph b of subdivision one of section 1301 of the New York city charter or pursuant to article 12 of the New York state private housing finance law.(3) "Comptroller" means the comptroller of the city of New York.

(4) "Construction work" means work performed by a covered worker in connection with the improvement or development of real property in relation to a city development project, and includes but is not limited to work performed by laborers, mechanics, or other workers in the same trade or occupation as those classified in section 220 of the New York state labor law.(5) "Covered developer" means any person or entity receiving financial assistance in relation to a city development project, or any person or entity that contracts or subcontracts with a person or entity receiving financial assistance in relation to a city development project to perform construction work for a period of more than ninety days on the premises of the person or entity receiving financial assistance, or any assignee or successor in interest of real property that qualifies as a city development project. "Covered developer" shall not include a small business.

(6) "Covered worker" means any person, the majority of whose employment consists of performing work in the same trade or occupation as those classified in

section 220 of the New York state labor law, performing construction work on a city development project.

(7) "Financial assistance" means assistance that is provided to a covered developer for the improvement or development of real property, economic development, job retention and growth, or other similar purposes, and that is provided either (a) directly by the city, or (b) indirectly by a city economic development entity and that is paid in whole or in part by the city, and that at the time the covered developer enters into a written agreement with the city or city economic development entity is expected to have a total present financial value of one million dollars or more. Financial assistance includes, but is not limited to, cash payments or grants, bond financing, tax abatements or exemptions (including, but not limited to, abatements or exemptions from real property, mortgage recording, sales and uses taxes, or the difference between any payments in lieu of taxes and the amount of real property or other taxes that would have been due if the property were not exempted from the payment of such taxes), tax increment financing, filing fee waivers, energy cost reductions, environmental remediation costs, write-downs in the market value of building, land, or leases, or the cost of capital improvements related to real property that, under ordinary circumstances, the city would not pay for; provided, however, that any tax abatement, credit, reduction or exemption that is given to all persons who meet criteria set forth in the state or local legislation authorizing such tax abatement, credit, reduction or exemption, shall be deemed to be as of right (or non-discretionary); and provided further that the fact that any such tax abatement, credit, reduction or exemption is limited solely by the availability of funds to applicants on a first come, first serve or other non-discretionary basis set forth in such state or local law shall not render such abatement, credit, reduction or exemption discretionary. Financial assistance shall include only discretionary assistance that is negotiated or awarded by the city or by a city economic development entity, and shall not include as-of-right assistance, tax abatements or benefits. Where assistance takes the form of leasing city property at below-market lease rates, the value of the assistance shall be determined based on the total difference between the lease rate and a fair market lease rate over the duration of the lease. Where assistance takes the form of loans or bond financing, the value of the assistance shall be determined based on the difference between the financing cost to a borrower and the cost to a similar borrower that does not receive financial assistance from a city economic development entity.

(8) "Prevailing wage" means the rate of wage and supplemental benefits paid in the locality to workers in the same trade or occupation and annually determined by the comptroller in accordance with the provisions of section 220 of the New York state labor law. As provided under subdivision six of section 220 of the New York state labor law, the prevailing wage requirement shall be satisfied where covered workers are given cash, or a combination of benefits and cash, equivalent to the cost of obtaining the prevailing benefits, or are provided an equivalent benefits plan.

(9)"Project labor agreement" means a pre-hire collective bargaining agreement between a covered developer and a labor organization that establishes the terms and conditions of employment for a city development project

(10) "Small business" means an entity that has annual reported gross revenues of less than three million dollars. For purposes of determining whether an employer qualifies as a small business, the revenues of any parent entity, of any subsidiary entities, and of any entities owned or controlled by a common parent entity shall be aggregated.

b. Prevailing Wage in City Development projects Required.

(1) Covered developers shall ensure that all covered workers performing construction work in connection with a city development project are paid no less than the prevailing wage.

(2) Prior commencing work at the city development project, and annually thereafter, every covered developer shall provide to the city economic development entity and the comptroller an annual certification executed under penalty of perjury that all covered workers employed at a city development project by the covered developer or under contract with the covered developer to perform construction work will be and/or have been paid the prevailing wage. Such certification shall include a record of the days and hours worked and the wages and benefits paid to each covered worker employed at the city development project or under contract with the covered developer. Such certification shall be certified by the chief executive or chief financial officer of the covered developer, or the designee of any such person. A violation of any provision of the certification, or failure to provide such certification, shall constitute a violation of this section by the party committing the violation of such provision.

(3) Each covered developer shall maintain original payroll records for each covered worker reflecting the days and hours worked, and the wages paid and benefits provided for such hours worked, and shall retain such records for at least six years after the construction work is performed. The covered developer may satisfy this requirement by obtaining copies of records from the employer or employers of such covered workers. Failure to maintain such records as required shall create a rebuttable presumption that the covered workers were not paid the wages and benefits required under this section. Upon the request of the comptroller or the city, the covered developer shall provide a certified original payroll record.

(4) No later than the day on which any work begins at any city development project subject to the requirements of this section, a covered developer shall post in a prominent and accessible place at every such city development project and provide each covered worker a copy of a written notice, prepared by the comptroller, detailing the wages, benefits, and other protections to which covered workers are entitled under this section. Such notice shall also provide the name, address and telephone number of the comptroller and a statement advising covered workers that if they have been paid less that the prevailing wage they may notify the comptroller and request an investigation. Such notices shall be provided in English and Spanish. Such notice shall remain posted for the duration of the lease and shall be adjusted periodically to reflect the current prevailing wage for covered workers. The comptroller shall provide the city with sample written notices explaining the rights of covered workers and covered developers' obligations under this section, and the city shall in turn provide those written notices to covered developers.

(5) The comptroller, the city or the city economic development entity may inspect the records maintained pursuant to paragraph 3 of this subdivision to verify the certifications submitted pursuant to paragraph 2 of this subdivision.

(6) The requirements of this section shall apply for one year from completion of the construction, expansion, rehabilitation, or renovation of the city development project.

(7) The city shall maintain a list of covered developers that shall include, where a written agreement between a city agency or city economic development entity and a covered developer providing for financial assistance is targeted to particular real property, the address of each such property. Such list shall be updated and published as often as is necessary to keep it current.

d. Enforcement.

(1) No later than October 1, 2015, the mayor or his or her designee shall promulgate implementing rules and regulations as appropriate and consistent with this section and may delegate such authority to the comptroller. Beginning twelve months after the enactment of the local law that added this section, the comptroller shall submit annual reports to the mayor and the city council summarizing and assessing the implementation and enforcement of this section during the preceding year.

(2) In addition to failure to comply with subdivision b of this section, it shall be a violation of this section for any covered developer to discriminate or retaliate against any covered worker who makes a claim that he or she is owed wages due as provided under this section or otherwise seeks information regarding, or enforcement of, this section.

(3) The comptroller shall monitor covered employers' compliance with the requirements of this section. Whenever the comptroller has reason to believe there has been a violation of this section, or upon a verified complaint in writing from an covered worker, a former covered worker, or a covered worker's representative claiming a violation of this section, the comptroller shall conduct an investigation to determine the facts relating thereto. At the start of such investigation, the comptroller may, in a manner consistent with the withholding procedures established by subdivision 2 of section 235 of the state labor law, request that the city or city economic development entity that executed a written agreement with the city or city economic development entity providing for financial assistance withhold any payment due to the financial assistance recipient in order to safeguard the rights of the covered workers.

(4) The comptroller shall report the results of such investigation to the mayor or his or her designee, who shall, in accordance with the provisions of paragraph 6 of this subdivision and after providing the covered developer an opportunity to cure any violations, where appropriate issue an order, determination, or other disposition, including, but not limited to, a stipulation of settlement. Such order, determination, or disposition may at the discretion of the mayor, or his or her designee, impose the following on covered developer committing the applicable violations: (i) direct payment of wages and/or the monetary equivalent of benefits wrongly denied, including interest from the date of the underpayment to the covered worker, based on the interest rate then in effect as prescribed by the superintendent

of banks pursuant to section 14-a of the state banking law, but in any event at a rate no less than six percent per year; (ii) direct payment of a further sum as a civil penalty in an amount not exceeding twenty-five percent of the total amount found to be due in violation of this section, except that in cases where a final disposition has been entered against a person in two instances within any consecutive six year period determining that such person has willfully failed to pay or to ensure the payment of the prevailing wages in accordance with the provisions of this section or to comply with the anti-retaliation, recordkeeping, notice, or reporting requirements of this section, the mayor, or his or her designee, may impose a civil penalty in an amount not exceeding fifty percent of the total amount found to be due in violation of this section; (iii) direct the maintenance or disclosure of any records that were not maintained or disclosed as required by this section; (iv) direct the reinstatement of, or other appropriate relief for, any person found to have been subject to retaliation or discrimination in violation of this section; or (v) direct payment of the sums withheld at the commencement of the investigation and the interest that has accrued thereon to the covered developer. In assessing an appropriate remedy, due consideration shall be given to the gravity of the violation, the history of previous violations, the good faith of the covered developer, and the failure to comply with record-keeping, notice, reporting, or other non-wage requirements. Any civil penalty shall be deposited in the general fund.

(5) In addition to the provisions provided in subparagraph a of this paragraph, in the case of a covered developer, based upon the investigation provided in this paragraph, the comptroller shall also report the results of such investigation to the city economic development entity, which may impose a remedy as such entity deems appropriate as within its statutorily prescribed authority, including rescindment of the award of financial assistance.

(6) Before issuing an order, determination, or any other disposition, the mayor, or his or her designee, as applicable, shall give notice thereof, together with a copy of the complaint, which notice shall be served personally or by mail on any person affected thereby. The mayor, or his or her designee, as applicable, may negotiate an agreed upon stipulation of settlement or refer the matter to the office of administrative trials and hearings, or other appropriate agency or tribunal, for a hearing and disposition. Such person or covered developer shall be notified of a hearing date by the office of administrative trials and hearings, or other appropriate agency or tribunal, and shall have the opportunity to be heard in respect to such matters.

(7) When a final disposition has been made in favor of a covered worker and the person found violating this section has failed to comply with the payment or other terms of the remedial order of the mayor, or his or her designee, as applicable, and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding has expired, the mayor, or his or her designee, as applicable, shall file a copy of such order containing the amount found to be due with the clerk of the county of residence or place of business of the person found to have violated this section, or of any principal or officer thereof who knowingly participated in the violation of this section. The filing of such order shall have the full force and effect of a judgment duly docketed in the office of such clerk. The order may be enforced by and in the name of the mayor, or his or her designee, as

applicable, in the same manner and with like effect as that prescribed by the state civil practice law and rules for the enforcement of a money judgment.

(8) In an investigation conducted under the provisions of this section, the inquiry of the comptroller or mayor, or his or her designee, as applicable, shall not extend to work performed more than three years prior to the filing of the complaint, or the commencement of such investigation, whichever is earlier.

e. Civil Action.

(1) Except as otherwise provided by law, any person claiming to be aggrieved by a violation of this section shall have a cause of action in any court of competent jurisdiction for damages, including punitive damages, and for injunctive relief and such other remedies as may be appropriate, unless such person has filed a complaint with the comptroller or the mayor with respect to such claim. In an action brought by a covered worker, if the court finds in favor of the covered worker, it shall award the covered worker, in addition to other relief, his/her reasonable attorneys' fees and costs.

(2) Notwithstanding any inconsistent provision of paragraph 1 of this subdivision where a complaint filed with the comptroller or the mayor is dismissed an aggrieved person shall maintain all rights to commence a civil action pursuant to this chapter as if no such complaint had been filed.

(3) A civil action commenced under this section shall be commenced in accordance with subdivision 2 of section 214 of New York civil practice law and rules.

(4) No procedure or remedy set forth in this section is intended to be exclusive or a prerequisite for asserting a claim for relief to enforce any rights hereunder in a court of law. This section shall not be construed to limit an covered worker's right to bring a common law cause of action for wrongful termination.

(5) Notwithstanding any inconsistent provision of this section or of, any other general, special or local law, ordinance, city charter or administrative code, an covered worker affected by this law shall not be barred from the right to recover the difference between the amount paid to the covered worker and the amount which should have been paid to the covered worker under the provisions of this section because of the prior receipt by the covered worker without protest of wages or benefits paid, or on account of the covered worker's failure to state orally or in writing upon any payroll or receipt which the covered worker is required to sign that the wages or benefits received by the covered worker are received under protest, or on account of the covered worker's failure to indicate a protest against the amount, or that the amount so paid does not constitute payment in full of wages or benefits due the covered worker for the period covered by such payment.

f. Application to existing city development projects. The provisions of this section shall not apply to any written agreement between a city agency or city economic development entity and a covered developer providing for financial assistance executed prior to the enactment of the local law that added this section, except that extension, renewal, amendment or modification of such written agreement, occurring on or after the enactment of the local law that added this section that results in the grant of any additional financial assistance to the financial assistance recipient shall make the covered developer subject to the conditions specified in section.

g. Severability. In the event that any requirement or provision of this section, or its application to any person or circumstance, should be held invalid or unenforceable by an court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other requirements or provisions of this section, or the application of the requirement or provision held unenforceable to any other person or circumstance.

h. Competing laws. This section shall be liberally construed in favor of its purposes. Nothing in this section shall be construed as prohibiting or conflicting with any other obligation or law, including any collective bargaining agreement, that mandates the provision of higher or superior wages, benefits, or protections to covered workers. No requirement or provision of this section shall be construed as applying to any person or circumstance where such coverage would be preempted by federal or state law. However, in such circumstances, only those specific applications or provisions of this section for which coverage would be preempted shall be construed as not applying.

§ 2. This local law shall take effect in one hundred eighty days.

Referred to the Committee on Finance.

Int. No. 745

By Council Members Dromm, King, Koo and Palma.

A Local Law to amend the administrative code of the city of New York, in relation to the operation of electronic sound devices on food vending vehicles.

Be it enacted by the Council as follows:

Section 1. Subdivision d of Section 24-237 of the administrative code of the city of New York is amended to read as follows:

(d) No person shall operate or use or cause to be operated or used on any public right-of-way any electrically operated or electronic sound signal device (other than a safety device, such as but not limited to a car horn or back up signal, that is actually used for its intended purpose) attached to, on or in a motor vehicle, wagon or manually propelled cart from which food or any other items are sold or offered for sale *after 9:00 p.m. and before 9:00 a.m., or* when the vehicle is stopped, standing or parked. For the purposes of this subdivision the term "stopped" means the halting of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with a police officer or other authorized enforcement officer or a traffic control sign or signal. The terms “standing” and "parked" shall be as defined in the vehicle and traffic law.

§ 2. This local law shall take effect immediately.

Referred to the Committee on Environmental Protection.

Int. No. 746

By Council Members Dromm, Chin, Ferreras, Koo and Palma.

A Local Law to amend the administrative code of the city of New York, in relation to preventing the unauthorized practice of immigration law.

Be it enacted by the Council as follows:

Section 1. Subchapter 14 of chapter 5 of title 20 of the administrative code of the city of New York is amended to read as follows:

Subchapter 14-*a*

Immigration Assistance Services

§ 20–77[0]*5* Definitions. For the purpose of this subchapter, the following terms have the following meanings:

a. "Immigration assistance service" means providing any form of assistance, in the city of New York, for a fee or other compensation, to persons who have come, or plan to come to the United States from a foreign country, or their representatives, in relation to any proceeding, filing or action affecting the non-immigrant, immigrant or citizenship status of a person, which arises under the immigration and nationality law, executive order or presidential proclamation, or which arises under actions or regulations of the United States citizenship and immigration services, *the United States department of homeland security,* the United States department of labor, or the United States department of state.

b. "Provider" means any person, including but not limited to a corporation, partnership, limited liability company, sole proprietorship or natural person, that provides immigration assistance services, but shall not include:

1. any person who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth or the District of Columbia, and is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting him or her in the practice of law, or any person working directly under the supervision of the person admitted;

2. any tax-exempt, not-for-profit organization that provides immigration assistance services without a fee or other payment from individuals or at nominal fees as defined by the federal board of immigration appeals and any employee of such organization acting within the scope of his or her employment;

3. any organization recognized by the federal board of immigration appeals that provides immigration assistance services via representatives accredited by such board to appear before the [bureau of] *United States* citizenship and immigration services and/or executive office for immigration review, that does not charge a fee or charges nominal fees as defined by the board of immigration appeals;

4. any authorized agency under subdivision ten of section three hundred seventy-one of the New York state social services law and the employees of such organization when acting within the scope of such employment;

5. any elected official who, acting within the scope of his or her official capacity, without a fee or other payment makes inquiries on behalf of an individual to the United States citizenship and immigration services, *the United States department of homeland security, the executive office for immigration review,* the United States department of labor, the United States department of state or any other government authority responsible for administering any program, law or regulation affecting the non-immigrant, immigrant or citizenship status of a person; [or]

6. any employee of the office of the mayor or an executive agency of the city of New York who, acting within the scope of his or her capacity as an employee of the office of the mayor or an executive agency of the city of New York, without a fee or other payment makes inquires on behalf of an individual to the United States citizenship and immigration services, *the United States department of homeland security, the executive office for immigration review,* the United States department of labor, the United States department of state or any other government authority responsible for administering any program, law or regulation affecting the non-immigrant, immigrant or citizenship status of a person*; or*

7. any individual providing representation in an immigration-related proceeding under federal law for which federal law or regulation establishes such individual's authority to appear.

§ 20–77[1]*6* Prohibited conduct. In the course of providing immigration assistance services, no provider may:

a. State or imply that the [person] *provider* can or will obtain special favors from or has special influence with the [bureau of] *United States* citizenship and immigration services*, the United States department of homeland security, the executive office for immigration review* or any other governmental entity, or threaten to report the [client] *customer* to immigration or other authorities or *threaten to* undermine in any way the [client's] *customer's* immigration status or attempt to secure lawful status;

b. Demand or retain any fees or compensation for services not performed, *services to be performed in the future* or costs that are not actually incurred;

c. Fail to provide a customer with copies of documents filed with a governmental entity or refuse to return original documents supplied by, prepared on behalf of, or paid for by the customer, upon the request of the customer, or upon termination of the contract. Original documents must be returned promptly upon request and upon cancellation of the contract, even if there is a fee dispute between the immigration assistance provider and the customer;

d. Assume, use or advertise the title of lawyer or attorney at law, or equivalent terms in the English language or any other language, or represent or advertise other titles or credentials, including but not limited to "Notary Public["],*"* "Accredited Representative of the Board of Immigration Appeals," [or] *"Notario Public," "Notario Publico," "Notario," "Immigration Specialist" or* "Immigration Consultant," that could cause a customer to believe that the person possesses special professional skills or is authorized to provide advice on an immigration matter; provided that a notary public licensed by the secretary of state may use the term "Notary Public["];*"*

e. Give any legal advice concerning an immigration matter, *including selecting or advising the customer on selecting a government agency form in order to obtain a specific government or immigration benefit,* or otherwise engage in the practice of law;

f. Give advice on the determination of a person's immigration status, including advising him or her as to the answers on a government form regarding such determination;

[f] *g*. Make any guarantee or promise to a customer, unless there is a basis in fact for such representation, and the guarantee or promise is in writing;

[g] *h*. Represent that a fee may be charged, or charge a fee for the distribution, provision or submission of any official document or form issued or promulgated by a state or federal governmental entity, or for a referral of the customer to another person or entity that is qualified to provide services or assistance which the immigration assistance service provider will not provide;

i. For a fee or other compensation refer a customer to an attorney or any other individual or entity that can provide services that the immigrant assistance service provider cannot provide;

j. Guarantee to expedite any immigration related governmental benefit, pursuant to an actual or fabricated relationship with or access to government employees who have the ability to expedite applications or other documentation, or issue a favorable decision for any reasons other than the merits of such application or documentation.

k. Knowingly provide misleading or false information to any person about his or her, or his or her family member's eligibility for a particular immigration benefit or status, or other government benefit, with the intent to induce such person to employ the services of the service provider;

[h] *l*. Disclose any information to, or file any forms or documents with, immigration or other authorities *on behalf of the customer* without the knowledge or consent of the customer *except where required by law. A provider shall notify the customer in writing when such provider has disclosed any information to or filed any form or document with immigration or other authorities when such disclosure or filing was required by law and done without the knowledge and consent of the customer*.

§ 20–77[2]*7* Written Agreement. No immigration assistance services shall be provided until the customer has executed a written contract with the *immigrant assistance service* provider [who will provide such services]. The contract shall be in a language understood by the customer, either alone or with the assistance of an available interpreter, and, if that language is not English, an English language version of the contract must also be provided. A copy of the contract shall be provided to the customer upon the customer's execution of the contract. *The interpreter shall provide an attestation affirming the accuracy of his or her translation, to be attached to the contract.* The customer has the right to cancel the contract within three business days after his or her execution of the contract, without fee or penalty. The right to cancel the contract within three days without payment of any fee may be waived when services must be provided immediately to avoid a forfeiture of eligibility or other loss of rights or privileges, and the customer furnishes the provider with a separate dated and signed statement, by the customer or his or her representative, describing the

need for services to be provided within three days and expressly acknowledging and waiving the right to cancel the contract within three days. The contract may be cancelled at any time after execution. If the contract is cancelled [after] *more than* three days *after it was signed*, or within three days *after it was signed (*if the right to cancel without fee has been waived*)*, the provider may retain fees for services rendered, and any additional amounts actually expended on behalf of the customer. All other amounts must be returned to the customer within fifteen days after cancellation. The written contract shall be in plain language, in at least twelve point [type] *font* and shall include the following:

1. The name, address and telephone number of the provider.

2. Itemization of all services to be provided to the customer, as well as the fees and costs to be charged to the customer *for each service*.

3. A statement that original documents required to be submitted in connection with an application made to the [federal bureau of] *United States* citizenship and immigration services or for other certifications, benefits or services provided by government may not be retained by the provider for any reason, including [payment of] *failure of the customer to pay* fees or costs *or other fee dispute*.

4. A statement that the provider shall give the customer a copy of each document [filed with a governmental entity] *prepared with the provider's assistance*.

5. A statement that the customer is not required to obtain supporting documents through the provider, [but] *and* may obtain such documents himself or herself[.], *along with the statement: "The U.S. government provides information on required forms and documentation for free online and by phone."*

6. The statement: "You *may cancel this contract at any time. You* have three (3) business days to cancel this contract *without fee or penalty and get back any fees that you have already paid*. Notice of cancellation [must be in writing, signed by you and mailed by registered or certified] *may be made by completing the cancellation form included in this contract, or otherwise notifying the provider in writing and delivering such form or notification to the provider in person or by* United States mail to (specify address). If you cancel this contract [within three days,] you will get back [your] *any* documents [and any fees that you paid] *you submitted to the provider*."

7. *Each contract shall contain a separate final page titled "Cancellation Form." The cancellation form shall contain the following statement: "I hereby cancel the contract of (date of contract) between (name of provider, address of provider, and phone number of provider) and (name of costumer)." Below the statement shall be a customer signature and date line. Below the signature and date line, the form shall contain the statement required by paragraph 8 of this subdivision, printed in 12 point or larger font size.*

8. A statement that the *immigrant assistance* provider has financial surety in effect for the benefit of any customer in the event that the customer is owed a refund, or is damaged by the actions of the provider, together with the name, address and telephone number of the surety.

[8] *9.* The statement: "The individual providing assistance to you under this contract is not an attorney licensed to practice law or accredited by the board of immigration appeals to provide representation to you before the [bureau of] *United*

States citizenship and immigration services, *the department of homeland security, the executive office for immigration review,* the department of labor, the department of state or any immigration authorities and may not give legal advice or accept fees for legal advice.["] *For a free legal referral call the Office for New Americans hotline at (phone number of the Office for New Americans), the New York State Office of the Attorney General (phone number of the Office of the Attorney General), or your local district attorney or prosecutor." The service provider shall be responsible for providing the most recent and accurate information required by this paragraph.*

[9] *10*. The statement: "The individual providing assistance to you under this contract is prohibited from disclosing any *of your personal* information to, or filing any forms or documents *on your behalf* with, immigration or other authorities without your knowledge and consent *except as required by law*." *A provider shall promptly notify the customer in writing when such provider has disclosed any information to or filed any form or document with immigration or other authorities when such disclosure or filing was required by law and done without the knowledge and consent of the customer.*

[10] *11*. The statement: "A copy of all forms completed and documents accompanying the forms shall be kept by the service provider for three years. A copy of the customer's file shall be provided to the [client] *customer* on demand and without fee."

12. On the same page as the signature line, the statement: "The individual providing assistance to you under the terms of this contract must explain the contents of this contract to you and answer any questions you may have regarding the terms of this contract."

§ 20–77[3]*7.1* Posting of Signs. a. A provider must post signs *conspicuously* at every location where that provider meets with customers. *Such sign shall state the required information in English, in addition to the six most common languages spoken in the New York city (and in every other language in which the person provides or offers to provide immigration assistance services at that location). There shall be a separate sign for each language, and each sign shall be posted in a location where it will be visible to customers. The sign must [*that] state[s] the following: "THE INDIVIDUAL PROVIDING ASSISTANCE TO YOU UNDER THIS CONTRACT IS NOT AN ATTORNEY LICENSED TO PRACTICE LAW OR ACCREDITED BY THE BOARD OF IMMIGRATION APPEALS TO PROVIDE REPRESENTATION TO YOU BEFORE THE [BUREAU OF] *UNITED STATES* CITIZENSHIP AND IMMIGRATION SERVICES, *THE DEPARTMENT OF HOMELAND SECURITY, THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,* THE DEPARTMENT OF LABOR, THE DEPARTMENT OF STATE OR ANY IMMIGRATION AUTHORITIES AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE.["] *FOR A FREE LEGAL REFERRAL CALL THE OFFICE FOR NEW AMERICANS HOTLINE AT (PHONE NUMBER OF THE OFFICE FOR NEW AMERICANS). TO FILE A COMPLAINT ABOUT AN IMMIGRANT ASSISTANCE SERVICE PROVIDER CALL THE OFFICE FOR NEW AMERICANS AT (PHONE NUMBER OF THE OFFICE FOR NEW AMERICANS), THE NEW YORK STATE OFFICE OF THE ATTORNEY GENERAL AT (PHONE NUMBER OF THE*

OFFICE OF THE ATTORNEY GENERAL), OR YOUR LOCAL DISTRICT ATTORNEY OR PROSECUTOR'S OFFICE AT (PHONE NUMBER OF THE LOCAL DISTRICT ATTORNEY)." The service provider shall be responsible for providing the most recent and accurate information required by this section. A separate sign shall be posted in a location visible to customers in conspicuous size [type] *font* and which contains the schedule of fees for services offered and the statement: "YOU MAY CANCEL ANY CONTRACT WITHIN 3 BUSINESS DAYS AND GET BACK YOUR DOCUMENTS AND ANY MONEY YOU PAID."

b. Signs required by this section must be at least 11 inches by 17 inches, *in no less than sixty point font* [and must be posted in a conspicuous location in English and in every other language in which immigration assistance services are provided at the location].

§ 20–77[4]*7.2* Advertisements. a. Every provider who advertises immigration assistance services by signs, pamphlets, newspapers or any other means shall post or otherwise include with the advertisement a notice in English and in the language in which the advertisement appears. The notice must be of a conspicuous size and must state: "The individual [providing] *offering to provide immigrant* assistance [to you] services is not an attorney licensed to practice law or accredited by the board of immigration appeals to provide representation [to you] before the [bureau of] *United States* citizenship and immigration services, *the department of homeland security, the executive office for immigration review,* the department of labor, the department of state or any immigration authorities and may not give legal advice or accept fees for legal advice."

b. No advertisement for immigration assistance services may expressly or implicitly guarantee any particular government action, including but not limited to the granting of residency or citizenship status.

§ 20–77[5]*8* Document Retention. [Every] *A* provider shall retain copies of all documents prepared or obtained in connection with a customer's request for assistance for a period of three years after a written contract is executed by the provider and the customer, whether or not such contract is subsequently cancelled.

§ 20–77[6]*9* Surety. Unless otherwise required by New York state law, every provider must maintain in full force and effect *for the entire period during which the provider provides immigrant assistance services and for one year after the provider ceases to do business as an immigrant assistance service provider,* a bond, contract of indemnity, or irrevocable letter of credit, payable to the people of the city of New York, in the principal amount of fifty thousand dollars. Such surety shall be for the benefit of any person who does not receive a refund of fees from the provider to which he or she is entitled, or is otherwise injured by the provider. The Commissioner on behalf of the person or the person in his or her own name may maintain an action against the provider and the surety.

§ 20–77[7]*9.1* Penalties. a. (1) Criminal Penalties. Any provider who violates any provision of this subchapter shall be guilty of a class A misdemeanor.

(2). Civil Penalties. Any provider of immigration assistance services who violates any provision of this subchapter or any rule or regulation promulgated hereunder shall be liable for a civil penalty of not less than [two hundred fifty] *five*

hundred dollars nor more than [two thousand five hundred] *five thousand* dollars for the first violation and for each succeeding violation a civil penalty of not less than [five hundred] *one thousand* dollars nor more than [five] *ten* thousand dollars.

b. A proceeding to recover any civil penalty authorized pursuant to the provisions of this section shall be commenced by the service of a notice of violation that shall be returnable to the administrative tribunal of the department of consumer affairs.

§ 20–77[8]*9.2*. Civil Cause of Action. Any person claiming to be injured by the failure of a provider of immigration assistance services to comply with the provisions of this subchapter shall have a cause of action against such provider of immigration assistance services in any court of competent jurisdiction for any or all of the following relief:

a. *actual* compensatory and punitive damages *or twenty five hundred dollars, whichever is greater*;

b. injunctive and declaratory relief;

c. attorney's fees and costs; and

d. such other relief as a court deems appropriate.

§ 20–779*.3* Rules. The commissioner may promulgate such rules and regulations as are necessary for the purposes of implementing and carrying out the provisions of this subchapter. Upon a finding by the commissioner that the requirements of state law applicable to providers of immigration services are substantially the same as the requirements of this subchapter, compliance with state law shall be deemed to be compliance with the requirements of this subchapter.

§ 20–7[80]*79.4* Severability. If any section, subsection, sentence, clause, phrase or other portion of this subchapter is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which shall continue in full force and effect.

§ 20–779.5 Reporting. a. The department shall prepare and submit to the mayor and the speaker of the city council a report that includes the following information related to immigration service providers:

1. *the number of complaints received related to immigration service providers;*
2. *the number of violations issued disaggregated by type;*
3. *the number of the violations issued based on a consumer complaint;*
4. *the number of violations that were issued as a result of an investigation or other proactive activity by the department or its agent; and*
5. *the length of time it took the department to investigate and determine whether or not to issue a violation for each complaint received.*

b. Such report shall be submitted on or before October 1, 2016 and every six months thereafter until the year 2020, and shall include the information required by subdivision a of this section as it relates to the six month period prior to the submission of such report.

§ 2. This local law shall take effect 120 days after enactment.

Referred to the Committee on Consumer Affairs.

Preconsidered Int. No. 747

By Council Member Ferreras (by request of the Mayor).

A Local Law in relation to the date of issuance and publication by the Mayor of a ten-year capital strategy, the date of submission by the Mayor of the proposed executive budget and budget message, the date of submission by the Borough Presidents of recommendations in response to the Mayor's executive budget, the date of publication of a report by the director of the independent budget office analyzing the executive budget, the date by which the Council hearings pertaining to the executive budget shall conclude, the date by which if the expense budget has not been adopted, the expense budget and tax rate adopted as modified for the current fiscal year shall be deemed to have been extended for the new fiscal year until such time as a new expense budget has been adopted, the date by which if a capital budget and a capital program have not been adopted, the unutilized portion of all prior capital appropriations shall be deemed reappropriated, the date of submission by the Mayor of an estimate of the probable amount of receipts, the date by which any person or organization may submit an official alternative estimate of revenues, the date by which if the Council has not fixed the tax rates for the ensuing fiscal year, the commissioner of finance shall be authorized to complete the assessment rolls using estimated rates, and related matters, relating to the fiscal year two thousand sixteen

Be it enacted by the Council as follows:

Section 1. During the calendar year 2015 and in relation to the 2016 fiscal year:

1. Notwithstanding any inconsistent provisions of section 248 of the New York city charter, as added by vote of the electors on November 7, 1989, the Mayor shall pursuant to such section issue and publish a ten-year capital strategy as therein described not later than May 7, 2015.

2. Notwithstanding any inconsistent provisions of section 249 of the New York city charter, as added by vote of the electors on November 7, 1989, subdivision a of section 249 as amended by local law number 25 for the year 1998, the Mayor shall pursuant to such section submit a proposed executive budget and budget message as therein described not later than May 7, 2015.

3. Notwithstanding any inconsistent provisions of section 251 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 recommendations in response to the Mayor's executive budget as therein described not later than May 15, 2015.

4. Notwithstanding any inconsistent provisions of section 252 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 executive budget as therein described not later than May 26, 2015.

5. Notwithstanding any inconsistent provisions of section 253 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 on the executive budget as therein described, which shall conclude by June 15, 2015.

6. Notwithstanding any inconsistent provisions of subdivision d of section 254 of the New York city charter, as added by vote of the electors on November 7, 1989, and subdivision b of section 1516 of the New York city charter, as amended by vote of the electors on November 7, 1989, if an expense budget has not been adopted by June 16, 2015 pursuant to subdivisions a and b of section 254 of the New York city charter, the expense budget and tax rate adopted as modified for the current fiscal year shall be deemed to have been extended for the new fiscal year until such time as a new expense budget has been adopted.

7. Notwithstanding any inconsistent provisions of subdivision e of section 254 of the New York city charter, as added by vote of the electors on November 7, 1989, if a capital budget and a capital program have not been adopted by June 16, 2015 pursuant to subdivisions a and b of such section, the unutilized portion of all prior capital appropriations shall be deemed reappropriated.

8. Notwithstanding any inconsistent provisions of subdivision a of section 1515 of the New York city charter, as amended by vote of the electors on November 7, 1989, the Mayor shall pursuant to such subdivision prepare and submit to the Council an estimate of the probable amount of receipts as therein described not later than June 16, 2015.

9. Notwithstanding any inconsistent provisions of subdivision d of section 1515 of the New York city charter, as added by vote of the electors on November 7, 1989, any person or organization may pursuant to such subdivision submit an official alternative estimate of revenues as described therein at any time prior to May 26, 2015.

10. Notwithstanding any inconsistent provisions of subdivision a of section 1516-a of the New York city charter, as amended by vote of the electors on November 7, 1989, if the Council has not fixed the tax rates for the ensuing fiscal year on or before June 16, 2015, the commissioner of finance shall pursuant to such subdivision be authorized to complete the assessment rolls using estimated rates and to collect the sums therein mentioned according to law. The estimated rates shall equal the tax rates for the current fiscal year.

11. Notwithstanding any inconsistent provisions of subdivision b of section 1516-a of the New York city charter, as amended by vote of the electors on November 7, 1989, if, subsequent to June 16, 2015, the Council shall, pursuant to section 1516 of the New York city charter, fix the tax rates for the ensuing fiscal year at percentages differing from the estimated rates, real estate tax payments shall nevertheless be payable in accordance with subdivision a of section 1516-a of such charter at the estimated rates, where the commissioner of finance has exercised the authority granted by subdivision a of section 1516-a of such charter to complete the assessment rolls using estimated rates and to collect the sums therein mentioned according to law. However, in such event, prior to the first day of January in such fiscal year, the commissioner of finance shall cause the completed assessment rolls to be revised to reflect the tax rates fixed by the Council pursuant to section 1516 of

such charter, and an amended bill for the installment or installments for such fiscal year due and payable on or after the first day of January shall be submitted to each taxpayer in which whatever adjustment may be required as a result of the estimated bill previously submitted to the taxpayer shall be reflected.

§ 2. This local law shall take effect immediately.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Int. No. 748

By Council Members Johnson, Cohen, Gibson, Constantinides, Eugene, Koo and Palma.

A Local Law to amend the New York city charter in relation to an office of drug strategy.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of the New York city charter is amended by adding a new section 21 to read as follows:

§ 21. Office of drug strategy.

a. The mayor shall establish an office of drug strategy to coordinate and effectively utilize New York city, and private and public resources to address problems associated with illicit and non-medical drug use and to redress the harms and disparities associated with past and current drug use. Such office shall be established in the executive office of the mayor, as a separate office within the office of the mayor, or within any other office of the mayor or within any department the head of which is appointed by the mayor. Such office shall be headed by a director who shall be appointed by the mayor. For purposes of this section, "director" means the director of drug strategy.

b. Powers and duties. The purpose of the office of drug strategy shall be to provide strategic leadership related to coordinating a public health and safety approach to illicit and non-medical drug use in order to reduce morbidity, mortality, crime, and inequities stemming from drug use and past or present drug policies, including through the development of an annual plan for drug policy in the city of New York. The director shall have the power and duty to:

1. advise the mayor, council, and appropriate city agencies on issues related to illicit and non-medical drug use and drug law enforcement in the city;

2. recommend necessary procedures, programs, legislation or administrative action to improve the public health and safety of the city's individuals, families, and communities by addressing the harms associated with illicit and non-medical drug use, past or current drug policies, and to reduce the stigma associated with drug use;

3. coordinate the activities of the various departments, commissions, boards, officers, offices, agencies, and employees of the city in accomplishing the city-wide

goals related to illicit and non-medical drug use, including, but not limited to, evidence-based drug education, public health intervention to prevent drug-related death and disease, and medical, psychological, and social services and care to promote and support health and wellness related to drug use, as well as addressing any health, social, and economic problems arising from past or present drug policies;

4. review and analyze current or proposed laws, rules, executive orders, other regulatory provisions or documents and proposed state legislation that affects the city's drug strategy goals and advise the mayor and council on these matters;

5. collaborate with existing substance use, medical, and mental health services, including community-based harm reduction programs, licensed substance use disorder treatment programs, healthcare providers, formalized recovery support programs, youth prevention programs, drug policy reform programs and community-based criminal justice programs to develop and foster effective responses to illicit and non-medical drug issues in the city;

6. develop, establish, administer and coordinate the city's inter-sectoral drug strategy plan pursuant to subdivision c of this section;

7. coordinate efforts in attracting additional private and public funds to accomplish the city-wide goals related to illicit and non-medical drug use;

8. act as liaison between city, state, and federal agencies working on issues related to illicit and non-medical drug use, including, but not limited to, programs and policies;

9. encourage the incorporation of the city-wide goals related to illicit and non-medical drug use in privately funded activities; and

10. act as a key spokesperson for the city on drug strategy matters.

c. Review and reporting. 1. No later than June 1, 2015, and no later than June 1 annually thereafter, the director shall prepare and submit to the mayor and the speaker of the city council a report on the status of municipal drug strategy in New York city. Such report shall include, but not be limited to:

i. an analysis of the status of current drug policies, programs, and services in the city, including identification of major goals and objectives for accomplishing the city-wide goals related to illicit and non-medical drug use, and issues or items where improvement is required for achieving these goals and objectives in order to reduce morbidity, mortality, crime, and inequities and disparities related to race, ethnicity, age, income, gender, geography, and immigration status;

ii. recommendations for city action to achieve these goals and objectives, including inter-sectoral procedures, programs, legislation, or administrative action and timelines for implementation.

d. There shall be a municipal drug strategy council whose members, shall include, but not be limited to, representatives from the department of health and mental hygiene, the department of education, the health and hospitals corporation, the New York city police department, the administration for children's services, the human resources administration, the department of corrections, the department of probation, the department of homeless services, the speaker of the council and up to three designees of the speaker, and representatives of any other agencies that the director may designate, as well as at least eight representative from continuum of

care providers, those directly affected by drug use, those in recovery from drug use, people formerly incarcerated for drug related offenses, and experts in issues related to illicit and non-medical drug use and policies. The director may establish subcommittees comprised of governmental or nongovernmental representatives as deemed necessary to accomplish the work of the municipal drug strategy council. In conjunction with the director, the municipal drug strategy council shall:

1. assist the director in the creation, development, and continued evaluation of the New York city drug strategy pursuant to subdivision (b)(6) of this section;

2. produce an addendum, as deemed necessary by the municipal drug strategy council, to the annual New York city drug policy report, as required by the director, pursuant to subdivision c of this section;

3. advise on drug policy-related federal, state, and local legislation, regulations, budget proposals, spending plans, programs, operations, and other governmental activities;

4. conduct policy research and provide data and other information on illicit and non-medical drug use in New York city;

5. make recommendations regarding the establishment of or regarding existing pilot programs related to illicit and non-medical drug use.

6. work with the director and members of the municipal drug strategy council to implement city-wide goals and objectives related to illicit and non-medical drug use.

§ 2.This local law shall take effect immediately upon enactment into law.

Referred to the Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services.

Int. No. 749

By Council Member Johnson, The Public Advocate (Ms. James) and Council Members Cumbo, Levin, Levine, Chin, Koslowitz, Palma, Mendez and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to requiring taxicabs and for-hire vehicles to be accessible to persons with physical disabilities.

Be it enacted by the Council as follows:

Section 1. Chapter five of title 19 of the administrative code of the city of New York is amended by adding a new section 19-544 to read as follows:

§ 19-544 Accessibility requirements. a. For purposes of this section, "accessible to persons with disabilities" shall mean any vehicle that is equipped with a lift, ramp, or any other device, arrangement or alteration, so that such vehicle is capable of allowing entry and exit from the side of such vehicle and transporting persons with physical disabilities, including those who use wheelchairs, scooters and similar devices while such persons remain seated in their wheelchairs, scooters or similar devices in accordance with the americans with disabilities act.

b. Beginning January 1, 2020, all taxicabs and for-hire vehicles shall be accessible to persons with disabilities.

§ 2. This local law shall take effect 90 days after its enactment into law.

Referred to the Committee on Transportation.

Res. No. 649

Resolution calling upon the New York State Assembly to pass, and the Governor to sign A.6075, which would amend the labor law, in relation to the prohibition of differential pay based on gender.

By Council Members Johnson, Cumbo, Arroyo, Chin, Constantinides, Dromm, Gibson, Koslowitz, Levine, Palma, Richards, Rosenthal, Cohen, Rodriguez, Lander, Van Bramer, Williams, Crowley, Kallos and Eugene.

Whereas, A.6075/S.1 was introduced in the Assembly on March 12, 2015 by Assembly Member Michelle Titus and in the Senate on January 9, 2015 by State Senator Diane Savino, and would amend the State Labor Law, in relation to the prohibition of differential pay based on gender; and

Whereas, S.1 passed in the Senate on January 12, 2015; and

Whereas, The Institute for Women's Policy Research ("IWPR") estimates that women in New York State earn 87.6 cents for every dollar earned by men and that in New York State women earn an average of $43,800 annually while men earn an average of $50,000 annually; and

Whereas, IWPR estimates that at this rate, women in New York State will not receive equal pay until the year 2049; and

Whereas, The U.S. Census Bureau estimates that women in New York City earn 82 cents for every dollar earned by men and an average of $58,207 annually, while men earn an average of $70,889 annually; and

Whereas, The estimated annual earnings of women compared to men in New York City vary by profession and for some professions the differential is larger than the national average; and

Whereas, For example, the U.S. Census Bureau estimates that female accountants and auditors in New York City earn 68.7 cents for every dollar earned by male accountants; and

Whereas, The estimated annual earnings of women compared to men in New York City also varies by age; and

Whereas, The U.S. Census Bureau estimates that women over 35 in New York City earn 78.1 cents for every dollar men over 35 earn; and

Whereas, When women in New York City are not paid equal to their male counterparts, not only are their families adversely affected, but the City's economy suffers; and

Whereas, The U.S. Census Bureau estimates that 18.5% of all households in New York City are headed by women and IWPR found that pay inequality for women stifles overall economic growth; and

Whereas, A.6075/S.1 would amend the State Labor Law by tightening the prohibition of differential pay based on gender; and

Whereas, Currently, although pay differentials based purely on gender are prohibited, the law contains exceptions for differentials based on: seniority, merit, a system that measures earnings by quantity or quality of production, or "any other factor other than sex;" and

Whereas, A.6075/S.1 would amend the final exception by replacing "any other factor other than sex" with a "bona fide factor other than sex, such as education, training, or experience"; and

Whereas, This factor would not be based on or derived from a sex-based differential and would be job-related and consistent with business necessity; and

Whereas, This exception would not apply if an employee could demonstrate that: (i) the employer is using a practice that causes a disparate impact on the basis of gender; (ii) an alternative practice would serve the same business purpose; and (iii) the employer refuses to adopt such an alternative; and

Whereas, A.6075/S.1 would entitle individuals who were paid unequal wages to liquidated damages of up to 300 percent of the amount of unpaid wages; and

Whereas, A.6075/S.1 would prohibit employers from forbidding employees from sharing wage information, which would allow women workers the ability to discover if their wages are unequal to their male counterparts; and

Whereas, A.6075/S.1 would require employers to make any workplace policy concerning the disclosure of wages consistent with all other state and federal laws; and

Whereas, Passage of A.6075 would bolster women's ability to contribute to the growth of the City's economy; and

Whereas, Passage of A.6075 is vital for granting women in this City the wages to which they are entitled; now, therefore, be it

Resolved, That the Council of the City of New York urges the New York State Assembly to pass, and the Governor to sign A.6075, which would amend the labor law, in relation to the prohibition of differential pay based on gender.

Referred to the Committee on Women's Issues.

Int. No. 750

By Council Members Kallos, Cabrera and Constantinides.

A Local Law to amend the administrative code of the city of New York, in relation to requiring landlords to distribute voter registration forms.

Be it enacted by the Council as follows:

Section 1. Section 27-2005 of the administrative code of the city of New York is amended by adding a new subdivision e to read as follows:

e. (1) An owner shall furnish to each tenant signing a vacancy lease an English-language New York state voter registration form. At such a tenant's request at the time of signing a vacancy lease, an owner shall furnish a Spanish-, Chinese-, Korean-, or Bengali-language New York state voter registration form to such tenant within ten days. For the purposes of this subdivision, the term "vacancy lease" has the meaning given in section 2520.6 of title 9 of the official compilation of the codes, rules and regulations of the state of New York.

(2) An owner may provide assistance in completing a voter registration form distributed pursuant to this subdivision, if so requested. An owner may transmit any completed form that was distributed pursuant to this subdivision to the board of elections. If doing so, such owner shall transmit such form within two weeks of the receipt of such completed form, but in no event after the last day for registration to vote in an upcoming citywide election unless such completed form is received on or after such day.

§ 2. This local law shall take effect 30 days after enactment.

Referred to the Committee on Housing and Buildings.

Int. No. 751

By Council Members Levine, Cumbo, Eugene, Johnson, King, Koo, Palma, Rodriguez and Rosenthal.

A Local Law in relation to the creation of an affordable housing lottery task force.

Be it enacted by the Council as follows:

Section 1. a. There is hereby established an affordable housing lottery task force to study lottery systems used for affordable housing and to make recommendations to the mayor and council for maximizing access to such systems. Such task force shall consider, at a minimum, the time it takes to screen applicants, the efficacy of screening requirements, the distribution of information regarding lottery eligibility requirements, and shall identify legal, regulatory and other barriers to implementing recommendations of such task force.

b. Such task force shall comprise five members:

(1) The commissioner of housing preservation and development, or the designee thereof;

(2) Two members appointed by the mayor, provided that at least one such member shall have a background in affordable housing development; and

(3) Two members appointed By The Speaker of the council, provided that at least one such member shall have a background in affordable housing development and at least one such member shall be a member, employee or director of, or

otherwise affiliated with, an organization engaged in housing-related advocacy work.

c. The members of such task force shall be appointed within ninety days after the enactment of this local law.

d. Such task force shall meet at least monthly.

e. At the first meeting of such task force, the task force shall select a chairperson from among its members by majority vote of the task force.

f. Each member of such task force shall serve for a term of twelve months, to commence after the final member of the task force is appointed. Any vacancies in the membership of the task force 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.

g. The department of housing preservation and development may provide staff to assist the task force.

h. No member of the task force shall be removed except for cause and upon notice and hearing by the official who appointed such member or, in the case of a succeeding member under subdivision f of this section, the official who appointed the succeeded member.

i. Members of the task force shall serve without compensation.

j. No more than twelve months after the date that the final member of the task force is appointed under subdivision f of this section, the task force shall submit to the mayor and the speaker of the council a report that shall include the findings and recommendations of the task force.

k. The task force shall dissolve upon submission of the report required by subdivision j of this section.

§2. This local law shall take effect immediately.

Referred to the Committee on Housing and Buildings.

Res. No. 650

Resolution in support of the Voting Rights Amendment Act of 2015 (H.R. 885), which restores and modernizes portions of the Voting Rights Act invalidated by the Supreme Court decision Shelby County v. Holder.

By Council Members Mealy, Chin, Constantinides, Crowley, Cumbo, Johnson, King, Palma, Rosenthal and Mendez.

Whereas, The right to vote is the foundation of democracy; and

Whereas, One of the most significant legislative achievements of the civil rights movement was the passage of the Voting Rights Act of 1965 (VRA), which protected Americans against racial or ethnic discrimination in voting; and

Whereas, The VRA's impact was immediately seen in the African American voter registration rate in states covered by the VRA, which increased from 29.3% to

52.1% between 1965 and 1967, according to the Cambridge University Press study, "Minority Representation and the Quest for Voting Equality;" and

Whereas, According to the same study, the number of African American state legislators also saw a dramatic increase in the eleven former Confederate states, from three to 176 between 1965 and 1985; and

Whereas, The VRA was reauthorized four times between 1970 and 2006 with large bipartisan support, including a unanimous Senate vote in 2006; and

Whereas, While substantial progress has been made in the last 50 years to reduce voter discrimination, significant challenges remain today; and

Whereas, Between 2000 and 2013, 148 separate violations of the VRA were documented nationwide, including eight in New York State, with some instances impacting hundreds of thousands of voters, according to a report by the Leadership Conference on Civil and Human Rights; and

Whereas, In June of 2013, the U.S. Supreme Court invalidated important portions of the VRA in the decision Shelby County v. Holder, striking down as unconstitutional the section that determines which jurisdictions require preclearance from the U.S. Department of Justice to enact changes to voting procedures; and

Whereas, U.S. Representative Sensenbrenner responded to the Shelby decision by introducing the Voting Rights Amendment Act of 2015 (VRAA), aiming to revise the criteria determining preclearance coverage and to offer additional measures to prevent and address voter discrimination; and

Whereas, The VRAA has several key features, including updating the preclearance formula to cover jurisdictions with a recent pattern of discrimination; and

Whereas, The legislation expands the federal court's ability to apply a preclearance remedy when it finds a violation of discriminatory result, where previously a finding of discriminatory intent was necessary; and

Whereas, It requires public notification of certain voting process changes and extends this requirement nationwide, beyond only the jurisdictions needing preclearance, to provide greater transparency for potentially discriminatory changes; and

Whereas, The VRAA also provides concrete, well-defined tools to prevent discrimination, including empowering the public and the Department of Justice to commence court actions to temporarily halt a potentially discriminatory voting change; and

Whereas, In addition, the legislation clarifies that the U.S. Attorney General retains the power to send federal observers to monitor elections in jurisdictions with preclearance obligations; and

Whereas, These measures are significant steps in preserving and protecting all Americans' fundamental right to participate in our democracy; now, therefore, be it

Resolved, That the Council of the City of New York calls for Congressional support for the Voting Rights Amendment Act of 2015 (H.R. 885), which restores and modernizes portions of the Voting Rights Act invalidated by the Supreme Court decision Shelby County v. Holder.

Referred to the Committee on Civil Rights.

Int. No. 752

By The Public Advocate (Ms. James) and Council Members Chin and Mendez.

A Local Law to amend the administrative code of the city of New York, in relation to information regarding employees of city contractors.

Be it enacted by the Council as follows:

Section 1. Paragraph 8 of subdivision a of section 6-116.2 of chapter 1 of title 6 of the administrative code of the city of New York is amended to read as follows:

(8) [Reserved]*the number of individuals employed to provide services under the contract, the number of hours worked by such individuals under the contract, and the total compensation of such individuals under the contract, disaggregated by job category, to the extent it is practicable for the contractor to provide such information; and*

§2. Chapter 1 of 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. Data regarding employees of city contractors.

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

(1) "Contracting entity" means a city, county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, authority, institution or agency of government, which receives funds in whole or in part from the city treasury.

(2) "City chief procurement officer" means the person to whom the mayor has delegated authority to coordinate and oversee the procurement activity of mayoral agency staff, including the agency chief contracting officers and any offices that have oversight responsibility for procurement.

(3) "Job category" means the identification for a group of individuals who perform similar job tasks on a city contract.

b. The city chief procurement officer shall publish and submit to the mayor, the council, the public advocate, and the comptroller an annual report providing details concerning the individuals employed by any vendor under contract with a contracting entity. Such report shall include the following information, disaggregated by contract and job category: (i) the number of individuals employed to provide services under the contract; (ii) the number of hours worked by such individuals; and (iii) the total compensation of such individuals.

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

Referred to the Committee on Contracts.

Res. No. 651

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, legislation extending the MTA tax to all for-hire vehicle trips.

By Council Members Reynoso, Chin and Rosenthal.

Whereas, New York State Tax Law Article 29-A imposes a tax of fifty cents per trip ("MTA tax") on all yellow taxi and Street Hail Livery ("boro taxi") trips that originate in New York City and terminate within the 12-county Metropolitan Commuter Transportation District; and

Whereas, The funds generated by this tax are used to support the Metropolitan Transportation Authority ("MTA") which operates bus, subway, commuter rail, and paratransit services in New York City and the surrounding region; and

Whereas, Yellow taxis complete approximately 175 million trips per year and boro taxis complete approximately 18 million hail trips per year, generating almost $100 million annually for the MTA; and

Whereas, The MTA tax does not apply to for-hire vehicles ("FHVs") such as liveries, black cars, and luxury limousines, except when liveries accept hails pursuant to a boro taxi license; and

Whereas, Smartphone app-based services such as Uber and Lyft are growing at a rapid pace in New York City and typically operate as black cars under Taxi and Limousine Commission ("TLC") regulations; and

Whereas, The black car sector has grown by 200 percent over the last four years, largely as a result of app-based services, which serve a transportation function similar to that of yellow and boro taxis; and

Whereas, Uber alone accounts for over 34,000 trips per day, according to September 2014 data; and

Whereas, According to the TLC, yellow taxi trip volume has decreased approximately 6 percent, with fares down approximately 3 percent, reflecting the many recent changes in New York's transportation network, including the rise of app-based services; and

Whereas, A decrease in yellow taxi fares necessarily results in a corresponding decrease in revenue generated by yellow taxi trips for the MTA via the MTA tax; and

Whereas, In order to achieve parity across all taxi and FHV sectors, ensure that all taxi and FHV passengers contribute their fair share to supporting mass transit, and to raise needed funds for the MTA as it confronts a $15 billion funding gap in its next five-year capital plan, the MTA tax should be extended to all FHV trips; 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 extending the MTA tax to all for-hire vehicle trips.

Referred to the Committee on Transportation.

Res. No. 652

Resolution calling upon the United States Congress to pass, and the President to sign, the GROW AMERICA Act.

By Council Members Rodriguez, Miller, Chin, Koo, Mendez, Rosenthal, Rose and Van Bramer.

Whereas, The current federal surface transportation funding law, the Moving Ahead for Progress in the 21st Century Act (MAP-21), as amended and extended by the Highway and Transportation Funding Act of 2014, expires on May 31, 2015; and

Whereas, President Barack Obama and U.S. Transportation Secretary Anthony Foxx have proposed a new transportation funding bill, the Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America (GROW AMERICA) Act; and

Whereas, The GROW AMERICA Act would increase transportation funding by $87 billion over four years; and

Whereas, The proposal includes $72 billion worth of investment in public transportation, representing an increase in average transit spending of nearly 70 percent above Fiscal Year 2014 enacted levels, a vital infusion of funds for a city like New York, which relies significantly on mass transit; and

Whereas, In addition to providing for the maintenance, repair, and modernization of America's roads, bridges, and transit systems, the GROW AMERICA Act would create millions of new jobs, help America stay competitive in the global economy, and increase opportunity and access for millions of Americans; and

Whereas, It would also increase safety across all modes of surface transportation and strengthen local decision-making regarding transportation funding, empowering local communities; and

Whereas, The GROW AMERICA Act would provide the investment necessary to maintain and expand the safe, efficient, and modern transportation and mass transit system that New York City needs in order to grow and thrive; 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 GROW AMERICA Act.

Referred to the Committee on Transportation.

Res. No. 653

Resolution calling upon the City University of New York to include in its FY16 budget and beyond, funding to provide MetroCards to all students enrolled in CUNY Colleges free of charge

By Council Members Rodriguez, Barron, Chin, Cumbo, Eugene, Johnson, King, Palma, Cohen, Rosenthal and Mendez.

Whereas, President Barack Obama has spoken often on the perils of the student loan debt crisis for future generations of college graduates, which can burden young people for years after they graduate, stagnating the economic growth of the county; and

Whereas, In June of 2014, President Barack Obama took executive action to cap student loan payments at 10% of the income of graduates working to pay their debt; and

Whereas, While the cost of an education at the colleges of the City University of New York (CUNY) is greatly reduced, compared to other colleges across the city and country, costing just $6,330 per year for New York resident students seeking their bachelor's degree and $4,800 per year for New York resident students seeking their associate's degree, these costs are a burden to many students; and

Whereas, These costs rise to $16,800 and $9,600 for students seeking their bachelor's degree and associate's degree respectively, for students living outside of the State of New York; and

Whereas, According to CUNY's pricing estimates for students who choose to or must live in school provided housing, the cost of such housing is $20,295 for 1 year in addition to the aforementioned cost of tuition; and

Whereas, According to CUNY data analyzed in the 2011 report by the Center for an Urban Future, 46% of all CUNY Community College students have an annual family income of $20,000 or less and 30% of all CUNY Community College students work over twenty hours per week; and

Whereas, According to CUNY, the cost of a MetroCard for the nine months of the year a student is generally attending classes is $1,020; and

Whereas, According to City University of New York (CUNY) data analyzed in a 2011 report by the Center for an Urban Future, the percentage of students earning an associate's or bachelor's degree within six years of first-time enrollment is just 28%; and

Whereas, According to this 2011 report by the Center for an Urban Future, a 10% increase in CUNY Community College graduation rates would generate an estimated $689 million in economic activity over a decade; and

Whereas, CUNY offers MetroCards free of charge to students in their Accelerated Study in Associate Programs (ASAP)—a three year program designed to support students seeking an associate's degree at CUNY Community Colleges—incentivizing students to remain enrolled; and

Whereas, According to a February 2015 analysis from the Manpower Demonstration Research Corporation (MDRC)—an organization that periodically assesses the ASAP program—ASAP has nearly doubled graduation rates compared to students not enrolled in this program; and

Whereas, New Jersey Transit offers significant discounts to college students in the tri-state region including many in New York City, thereby demonstrating the demand for such a program as well as the operational capacity to employ it; now, therefore, be it

Resolved, That the Council of the City of New York calls upon CUNY to include in its FY16 budget and beyond, funding to provide MetroCards to all students enrolled in CUNY Colleges free of charge.

Referred to the Committee on Higher Education.

Int. No. 753

By Council Members Rosenthal, Crowley, Dromm, Cumbo, Koslowitz, Palma, Cornegy, Torres, Cohen, Rodriguez and Cabrera.

A Local Law to amend the New York city charter, in relation to requiring the department of information technology and telecommunications to post a quarterly report on the department's website regarding the bail status of New York city inmates.

Be it enacted by the Council as follows:

Section 1. Section 1072 of Chapter 48 of the New York city charter is amended by adding new subdivisions s and t to read as follows:

s. to post on the city's website, within twenty days of the beginning of each quarter of the fiscal year, a report regarding the bail status of city jail inmates during the preceding quarter. For the purposes of this subdivision, any inmate incarcerated on multiple charges shall be deemed to be incarcerated only on the most serious charge, a violent felony shall be deemed to be more serious than a non-violent felony of the same class, any inmate incarcerated on multiple charges of the same severity shall be deemed to be held fractionally on each charge based on the number of pending charges, any inmate incarcerated on multiple bail amounts shall be deemed to be only held on the highest bail amount, and any inmate held on pending criminal charges who has any hold shall be deemed to be held only on the pending criminal charges. Such report shall include the following information for the preceding quarter:

1. The average daily population of inmates in the custody of the department of correction.

2. The number of inmates admitted to the custody of the department of correction during the reporting period who had been sentenced, the number held on pending criminal charges, and the number in any other category.

3. Of the average daily population of inmates in the custody of the department of correction, the percentage who had been sentenced, the percentage held on pending criminal charges, and the percentage in any other category.

4. Of the average daily population of inmates in the custody of the department of correction held on pending criminal charges, the percentage who were remanded without bail.

5. The number of inmates in the custody of the department of correction who were sentenced to a definite sentence during the reporting period of the following

length: (a) 1-15 days; (b) 16-30 days; (c) 31-90 days; (d) 91-180 days; or (e) 180 days or more.

6. Of the average daily population of inmates in the custody of the department of correction who were sentenced to a definite sentence, the percentage of inmates whose sentences were of the following lengths: (a) 1-15 days; (b) 16-30 days; (c) 31-90 days; (d) 91-180 days; or (e) 180 days or more.

7. The number of inmates admitted to the custody of the department of correction during the reporting period on pending criminal charges who were charged with offenses of the following severity: (a) class A or B felonies; (b) class C felonies; (c) class D or E felonies; (d) misdemeanors; or (e) non-criminal charges..

8. Of the average daily population of inmates in the custody of the department of correction held on pending criminal charges, the percentage charged with offenses of the following severity: (a) class A or B felonies; (b) class C felonies; (c) class D or E felonies; (d) misdemeanors; or (e) non-criminal charges.

9. The number of inmates admitted to the custody of the department of correction during the reporting period on pending criminal charges who were charged with offenses of the following severity: (a) violent felonies as defined in section 70.02 of the penal law; (b) non-violent felonies as defined in section 70.02 of the penal law; (c) misdemeanors; or (d) non-criminal charges.

10. Of the average daily population of inmates in the custody of the department of correction held on pending criminal charges, the percentage charged with offenses of the following severity: (a) violent felonies as defined in section 70.02 of the penal law; (b) non-violent felonies as defined in section 70.02 of the penal law; (c) misdemeanors; or (d) non-criminal charges.

11. Of the average daily population of inmates in the custody of the department of correction held on pending criminal charges, the percentage charged with offenses of the following type, including the attempt to commit any of such offense as defined in section 110 of the penal law:

(a) The following crimes as defined in the New York state penal law: (i) Misdemeanor larceny as defined in sections 155.25, 140.35, and 165.40, (ii) Misdemeanor drug possession as defined in section 220.03, (iii) Misdemeanor assault as defined in sections 120.00, 120.15, 120.14, 121.11, and 265.01, (iv) Misdemeanor harassment or violation of a court order as defined in sections 215.50 and 240.30, (v) Misdemeanor theft of services as defined in section 165.15, (vi) Misdemeanor trespass as defined in sections 140.10 and140.15, (vii) Misdemeanor criminal mischief or graffiti as defined in sections 145.00 and 145.60 (viii) Misdemeanor sexual crimes as defined in sections 130.52, 130.55, and 135.60, (ix) Misdemeanor resisting arrest or obstructing governmental administration as defined in sections 205.30 and 195.05, (x) Misdemeanor marijuana possession as defined in sections 221.10 and 221.40, (xi) Felony vehicular assault or vehicular manslaughter as defined in sections 120.03, 120.04, 120.04-a, 120.20, 120.25, 125.12, 125.13, and 125.14, (xii) Felony assault as defined in sections 120.05, 120.06, 120.07, 120.08, 120.09, 120.10, 120.11, 120.12, and 120.13, (xiii) Homicide or manslaughter as defined in sections 125.10, 125.11, 125.15, 125.20, 125.21, 125.22, and 125.25, (xiv) Felony sexual assault as defined in sections 130.25, 130.30, 130.35, 130.40, 130.45, 130.50, 130.53, 130.65, 130.65a, 130.66, 130.67, 130.70, 130.75, 130.80, 130.95, and 130.96, (xv) Kidnapping as defined in sections 135.10, 135.20, and 135.25, (xvi)

Burglary as defined in sections 140.20, 140.25, and 140.30, (xvii) Arson as defined in sections 150.05, 150.10, 150.15, and 150.20, (xviii) Robbery or grand larceny as defined in sections 155.30, 155,35, 155.40, 155.42, 160.05, 160.10, 160.15, 165.45, 165.50, 165.52, and 165.54, (ixx) Felony violation of a court order as defined in sections 215.51 and 215.52, (xx) Felony drug possession or sale as defined in sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, and 220.44, (xxii) Firearm or weapons possession as defined in sections 265.01-A, 265.01-B, 265.02, 265.03, 265.04, 265.09, 265.11, 265.12, 265.13;

(b) The following crimes as defined in the New York state vehicle and traffic law: (i) Driving under the influence of alcohol as defined in section 1192, (ii) Driving with a suspended license as defined in section 511; or

(c) The following categories of offense: (i) Any violation or non-criminal offense, (ii) Any misdemeanor not specifically enumerated in this paragraph, (iii) Any felony not specifically enumerated in this paragraph.

12. The number of inmates admitted to the custody of the department of correction during the reporting period on pending criminal charges who were charged with offenses in the categories defined in subparagraphs a, b, and c of paragraph 11 of subdivision s of this section.

13. The number of inmates admitted to the custody of the department of correction during the reporting period on pending criminal charges who had bail fixed in the following amounts: (a) $1; (b) $2-500; (c) $501-$1000; (d) $1001-2500; (e) $2501-5000; (f) $5001-10,000; (g) $10,001-25,000; (h) $25,001-50,000; (i) $50,001-100,000; or (j) $100,001 and higher..

14. Of the average daily population of inmates in the custody of the department of correction who were held on pending criminal charges, the percentage who had bail fixed in the following amounts: (a) $1; (b) $2-500; (c) $501-$1000; (d) $1001-2500; (e) $2501-5000; (f) $5001-10,000; (g) $10,001-25,000; (h) $25,001-50,000; (i) $50,001-100,000; or (j) $100,001.

15. The number of inmates admitted to the custody of the department of correction during the reporting period on pending criminal charges who had a criminal history in the following categories: (a) no criminal record; (b) a criminal record with no felony convictions; (c) a criminal record with 1 or more non-violent felony conviction but no violent felony convictions; or (d) a criminal record with 1 or more violent felony convictions.

16. Of the average daily population of inmates in the custody of the department of correction who were held on pending criminal charges, the percentage who had a criminal history in the following categories: (a) no criminal record; (b) a criminal record with no felony convictions; (c) a criminal record with 1 or more non-violent felony conviction but no violent felony convictions; or (d) a criminal record with 1 or more violent felony convictions.

17. Of the average daily population of inmates in the custody of the department of correction who were held on pending criminal charges, the percentage who had been incarcerated for the following lengths of time: (a) 1-2 days, (b) 3-5 days, (c) 6-15 days; (d) 16-30 days; (e) 31-90 days; (f) 91-180 days; (g) 180 – 365 days; or (h) 366 days or more.

t. to make a good faith effort to procure from the state office of court administration, the New York city police department, or any other agency or organization that may possess such information, and to post on the department's website, within twenty days of the beginning of each quarter of the fiscal year, information regarding the city's criminal courts. For the purposes of this subdivision, any case in which bail was set in multiple amounts shall be deemed to have had bail set in only the highest amount, and any case in which there were convictions for multiple counts shall be deemed to have been a conviction for only the most serious count. Such report shall include the following information for the preceding quarter:

1. The number of cases in which bail was set at arraignment on a misdemeanor complaint.

2. Of all cases arraigned on a misdemeanor complaint, the percentage in which bail was set.

3. The number of cases in which bail was set at arraignment on a felony complaint.

4. Of all cases arraigned on a felony complaint, the percentage in which bail was set.

5. The number of cases in which bail was posted during any time in which the most serious pending count was a misdemeanor and the defendant failed to appear for at least one court appearance during the reporting period.

6. Of all cases in which bail was posted during any time in which the most serious pending count was a misdemeanor, the percentage in which the defendant failed to appear for at least one court appearance during the reporting period.

7. The number of cases in which bail was posted during any time in which the most serious pending count was a felony and the defendant failed to appear for at least one court appearance during the reporting period.

8. Of all cases in which bail was posted during any time in which the most serious pending count was a felony, the percentage in which the defendant failed to appear for at least one court appearance during the reporting period.

9. The number of cases in which the defendant was released without bail during any time in which the most serious pending count was a misdemeanor and the defendant failed to appear for at least one court appearance during the reporting period.

10. Of all cases in which the defendant was released without bail during any time in which the most serious pending count was a felony, the percentage in which the defendant failed to appear for at least one court appearance during the reporting period.

11. Of all cases in which the defendant was released from arraignment on a misdemeanor complaint, the percentage in which the defendant's release was subject to specified conditions, including but not limited to supervised release programs, but not including the sole condition that the defendant not be re-arrested.

12. Of all cases in which the defendant was released from arraignment on a felony complaint, the percentage in which the defendant's release was subject to specified conditions, including but not limited to supervised release programs, but not including the sole condition that the defendant not be re-arrested.

13. Of all criminal cases in which bail was fixed, the percentage in which a form of bail other than cash or insurance company bond was ordered.

14. Of all criminal cases in which bail was fixed during the preceding reporting period, the percentage in which the defendant posted bail, in total and disaggregated by the following bail amounts: (a) $1-500; (b) $501-$1000; (c) $1001-2500; (d) $2501-5000; (e) $5001-10,000; (f) $10,001-25,000; (g) $25,001-50,000; (h) $50,001-100,000; or (i) $100,001 and higher.

15. Of all cases in which the defendant was held in the custody of the department of correction on pending criminal charges for any period of time and in which a disposition was reached during the reporting period, the percentage in which the disposition was as follows: (a) conviction for a violent felony; (b) conviction for of a non-violent felony; (c) conviction for a misdemeanor; (d) conviction for a non-criminal offense; (e) charges dismissed or adjourned in contemplation of dismissal; or (f) any other disposition.

16. Of all cases in which the defendant was held in the custody of the department of correction on pending criminal charges during the reporting period for any period of time, the percentage in which the status of the criminal case is as follows: (a) the charges are pending and the defendant was released by posting bail, (b) the charges are pending and the defendant was released by court order, (c) the charges are pending and the defendant was not released (d) conviction for a violent felony; (e) conviction for a non-violent felony; (f) conviction for a misdemeanor; (g) conviction for a non-criminal offense; (h) charges dismissed or adjourned in contemplation of dismissal; or (i) any other disposition.

17. Of the average daily population of inmates in the custody of the department of correction who were held on pending criminal charges during the reporting period, the percentage in which the status of the criminal case on the final day of the reporting period is as follows: (a) the charges are pending and the defendant was released by posting bail, (b) the charges are pending and the defendant was released by court order, (c) the charges are pending and the defendant was not released (d) conviction for a violent felony; (e) conviction for a non-violent felony; (f) conviction for a misdemeanor; (g) conviction for a non-criminal offense; (h) charges dismissed or adjourned in contemplation of dismissal; or (i) any other disposition.

18. The information in paragraphs 1, 3, 14, 15, 16, and 17 of subdivision t of this section and the information in paragraphs 1, 5, 7, 9, and 13 of subdivision s of this section disaggregated by the borough in which the inmate's case was pending. This data shall be listed separately and shall also be compared to the following crime rates disaggregated by borough:

(a) The number of crimes reported per capita;

(b) The number of violent crimes reported per capita;

(c) The number of arrests per capita; and

(c) The number of arrests for violent crimes per capita.

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

Referred to the Committee on Fire and Criminal Justice Services.

Int. No. 754

By Council Members Rosenthal, Cabrera, Levine, Palma and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to notification for pesticide application in city parks.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 18 of the administrative code of the city of New York is amended by adding a new section 18-142 to read as follows:

§18-142 Warning signs for pesticide application. The department shall develop and implement a notification service that shall allow persons to subscribe to receive a text message and/or email notice twenty-four hours prior to a planned application of pesticides to any property under the jurisdiction of the department within the community district or districts specified by such person. Such notification shall include, but need not be limited to, the specific time of the planned application, the location or address, if applicable, of the planned application, a description of the type of pesticide to be used for such planned application pursuant to subdivision a of section 17-1207 of the code and the length of time that notices of such application pursuant to subdivision b of section 17-1207 of the code shall be posted at the location of such pesticide application

§ 2. This local law shall take effect 180 days after its enactment.

Referred to the Committee on Parks and Recreation.

Res. No. 654

Resolution calling upon the New York State Legislature to pass, and the Governor to sign S.4371/A.608, legislation which would establish a new property tax classification for properties held in condominium and cooperative form.

By Council Members Vallone, Weprin, Constantinides, Dickens and Cohen.

Whereas, The New York City Department of Finance (DOF) assesses the value of all properties, collects property taxes and other property-related charges, maintains property records, administers exemptions and abatements and collects unpaid property taxes and other property-related charges through annual lien sales; and

Whereas, Property taxes are the city's largest revenue source; and

Whereas, According to DOF, property tax represented 41% of all the city tax dollars collected in fiscal year 2013; and

Whereas, Currently, there are four different property tax classes in the city, each pay a different share of property taxes; and

Whereas, Class 1 consists of one- to three-unit residential properties, Class 2 consists of residential properties with more than 3 units, including cooperatives and

condominiums, Class 3 consists of utility company equipment and special franchise properties and Class 4 consists of all other real property, including office buildings, factories, stores, hotels and lofts; and

Whereas, In the city, over half a million families reside in Class 2 cooperatives or condominiums; and

Whereas, Families residing in larger Class 2 cooperatives and condominiums are treated differently than families residing in smaller Class 2 cooperatives and condominiums and families residing in Class 1 one- to three-unit residential properties, the latter enjoy more favorable assessment caps; and

Whereas, Assessment caps limit the annual increase in the assessed value of an individual's property, thereby limiting the amount an individual's property tax bill may increase in any given year; and

Whereas, Property taxes are assessed differently for cooperatives and condominiums with 10 units or fewer and cooperatives and condominiums with 11 units or more; and

Whereas, State law places a cap on the amount the assessed value of Class 2 cooperatives and condominiums with 10 units or fewer may increase each year, the assessed value cannot increase more than 8% in any one year or 30% in any five years; and

Whereas, While State law allows Class 2 cooperatives and condominiums with 11 units or more to have changes in their assessed value phased in over a five-year period, they do not enjoy a fixed assessment cap like smaller Class 2 cooperatives and condominiums; and

Whereas, S.4371, sponsored by State Senator Toby Ann Stavisky, currently pending in the New York State Senate and A.608, sponsored by State Assembly Member Edward C. Braunstein, currently pending in the New York State Assembly, would establish a new property tax classification, Class 2, consisting solely of properties held in cooperative or condominium form; and

Whereas, Specifically, the legislation would amend the current property tax Class 2 to consist of only cooperatives or condominiums and add a new property tax Class 5 to consist of all residential property that is not classified as Class 1 or Class 2; and

Whereas, Further, the legislation would extend the assessment caps of 8% in any one year and 30% in any five years to all Class 2 properties, including cooperatives and condominiums with 11 units or more; and

Whereas, The legislation would ensure that all cooperatives and condominiums are treated equally for property tax purposes and that larger cooperatives and condominiums do not see dramatic increases in their property taxes in any given year; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign S.4371/A.608, legislation which would establish a new property tax classification for properties held in condominium and cooperative form.

Referred to the Committee on Finance.

Int. No. 755

By Council Members Williams, Arroyo, Cumbo, Eugene, Gibson, Johnson, Palma and Rodriguez.

A Local Law to amend the administrative code of the city of New York, in relation to evictions of disabled tenants.

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 12 to read as follows:

CHAPTER 12

EVICTIONS OF DISABLED TENANTS

§ 26-1201 Definitions.

§ 26-1202 Notification requirement.

§ 26-1203 Tenant assistance.

§ 26-1204 Reporting.

§ 26-1205 Violations.

§ 26-1206 Rules.

§ 26-1201 Definitions. For the purposes of this chapter, the following terms shall mean:

COMMISSIONER. The commissioner of housing preservation and development.

DEPARTMENT. The department of housing preservation and development.

DISABLED OCCUPANT. A person who is (i) entitled to the possession or use and occupancy of a dwelling unit and (ii) who is a disabled person or the spouse or domestic partner of a disabled person as defined in subdivision m of section 17-306 of this code.

DWELLING UNIT. A dwelling unit as defined by section 27-2004 of the housing maintenance code.

OWNER. An owner as defined by section 27-2004 of the housing maintenance code.

§ 26-1202 Notification requirement. On or before the day on which an owner serves a petition or notice of petition for a summary proceeding to recover possession of real property, pursuant to article seven of the real property actions and proceedings law or a notice pursuant to section 5(a)(11) of the emergency tenant protection act of 1974, upon a disabled occupant, the owner shall provide written notification to the department of the name, address and phone number of the disabled occupant where an owner knows or has reason to know the occupant is disabled. Such notification shall be in the form and manner determined by the department pursuant to rules promulgated by the department.

§ 26-1203. Tenant assistance. Upon receiving a notice pursuant to section 26-1202 of this chapter, the department shall provide to the disabled occupant identified

on the notice a list of entities that may provide legal services to disabled tenants, including low-income disabled tenants, or that may assist such tenants in obtaining legal services.

§ 26-1204 Reporting. The commissioner, in conjunction with the commissioner on human rights, shall, no later than July first of each year, report to the mayor and the speaker of the council on trends identified in evictions of disabled tenants and any findings or pattern of discrimination against disabled tenants with respect to eviction based upon information received pursuant to section 26-1202 of this chapter.

§ 26-1205 Violations. Any person who violates section 26-1202 of this chapter shall be guilty of a class A misdemeanor.

§ 26-1206 Rules. The commissioner shall promulgate such rules as may be necessary for the purposes of implementing the provisions of this chapter.

§2. This local law shall take effect ninety days after its enactment into law, except that the commissioner of housing preservation and development 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 Housing and Buildings.

Int. No. 756

By Council Members Williams, Chin, Koo and Palma.

A Local Law to amend the administrative code of the city of New York, in relation to pedestrian safety reporting.

Be it enacted by the Council as follows:

Section 1. Subdivision d of section 19-181 of title 19 of the administrative code of the city of New York section is amended to read as follows:

d. [The department] *Within thirty days of completing the inspection required under subdivisions a and b or any actions required by subdivision c of this section, the department shall send a report noting such inspection and any recommendations to the council member and community board in whose district the traffic crash location is located and* shall make [the] *such* results [of the inspections required under subdivisions a and b or any actions required by subdivision c of this section] available upon request to the public.

§ 2. Section 19-182 of title 19 of the administrative code of the city of New York is amended to read as follows:

a. Every [five] *three* years, the department shall conduct a comprehensive study of all traffic crashes involving a pedestrian fatality or serious injury for the most recent [five] *three* years where traffic crash data is available. In each such study, the department shall analyze the conditions and factors associated with each such traffic crash and identify common factors among the crashes, if any. The department shall use such studies to develop strategies to improve pedestrian safety, which may

include modifying citywide traffic operations policy, developing pedestrian safety strategies geared towards specific users, including, but not limited to, installation of audible pedestrian signals and other devices to assist those with sight, hearing and mobility impairments, prioritizing locations and/or types of roadways or intersections for safety improvements and making recommendations for improving safety at such locations.

b. The first comprehensive traffic study and plans, including a schedule for implementing strategies for improving pedestrian safety generated by such study, shall be submitted to the mayor and speaker of the council and posted on the department's official website by the thirtieth day of november, two thousand and fifteen. Subsequent studies and plans shall be submitted to the mayor, [and] speaker of the council, *and community boards* and posted on the department's official website every [five] *three* years thereafter by the thirtieth of november [in such years].

§ 3. This local law shall take effect immediately upon enactment into law.

Referred to the Committee on Transportation.

Res. No. 655

Resolution calling upon the New York State Office of Temporary and Disability Assistance to promulgate a rule which would require family shelter facilities to post the list of residents' rights and protections in a public area.

By Council Members Williams, Barron, Arroyo, Chin, Cumbo, Eugene, Johnson, Koo, Palma, Richards, Rosenthal and Mendez.

Whereas, New York City is experiencing record levels of homelessness which have not been seen since the Great Depression; and

Whereas, As of February 25, 2015, 11,900 families were residing in the Department of Homeless Services (DHS) shelter system; and

Whereas, Families with children are living in shelters for longer than ever, with the average length of stay for Fiscal Year 2014 reaching 427 days; and

Whereas, DHS has the legal obligation to house every eligible family, and must guarantee families certain rights and protections during their time living in the shelter system; and

Whereas, Pursuant to Section 900.9 of Title 18 of the Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) shelter facilities housing homeless families must guarantee each family certain rights and protections; and

Whereas, Such rights found in the NYCRR include the following: the right to remain in the facility and not be discharged or involuntarily transferred, except as provided by law; the right to receive visitors in designated areas of the shelter; the right to exercise one's civil rights; the right to religious liberty; the right to have private written and verbal communication including the right to meet with legal representatives; the right to present grievances; the right to manage one's own financial affairs; the right to confidential treatment of personal, social, financial, and medical records; the right to receive courteous, fair and respectful care and treatment; the right to be free from restraint or confinement; the right to receive and

send mail without interference or interception; and the right to leave and return to the facility at reasonable hours in accordance with facility rules; and

Whereas, However, pursuant to the NYCRR, the shelter facility only has the obligation to provide each family with a copy of such rights upon their admission to the facility; and

Whereas, According to DHS, the main reasons for families entering the shelter system are eviction, overcrowding, and domestic violence; and

Whereas, Families with children must prove their eligibility for shelter before they receive placement and are required to do things such as provide extensive personal documents, provide proof of previous housing for the preceding two years, explain why they left each location, and disclose personal resources such as friends, family, or others who applicants believe can offer living arrangements; and

Whereas, According to data from the Local Law 37 of 2011 report on Temporary Housing Assistance Usage for January 2015, almost 40 percent of families admitted to the shelter system had to apply on more than one occasion before being found eligible; and

Whereas, Therefore, it is likely that families are under high levels of stress upon first entering the shelter system and having a facility only provide to them their list of rights and protections at that single moment is likely insufficient to fully inform such families of their rights; and

Whereas, Each shelter should post the list of rights and protections in a common area of the shelter so all families are fully aware of their protections under the law; now, therefore, be it,

Resolved, That the Council of the City of New York calls upon the New York State Office of Temporary and Disability Assistance to promulgate a rule which would require family shelter facilities to post the list of residents' rights and protections in a public area.

Referred to the Committee on General Welfare.

Res. No. 656

Resolution calling upon the State of New York to amend the Social Services law in order to raise the income eligibility for child care subsidies, so more children of working families have access to early childhood education services.

By Council Members Wills, Levin, Cornegy, Cabrera, Mealy, Arroyo, Barron, Dickens, Gibson, Kallos, King, Koslowitz, Menchaca, Miller, Palma, Vallone, Reynoso, Richards, Cumbo, Williams, Espinal, Chin, Mendez, Rodriguez, Koo, Torres and Rose.

Whereas, According to the New York State Office of Children and Family Services (OCFS), approximately 217,000 children in 130,000 families received child care subsidies statewide in Federal Fiscal Year 2014, of which 65 percent of these children are from New York City; and

Whereas, New York State Law allows local social services districts to offer subsidized child care to families with incomes no greater than 200% of the State Income Standard (200% SIS), which is the equivalent to the Federal Poverty Guidelines; and

Whereas, In New York City, families are eligible for subsidized child care if they meet the SIS requirement and need child care to work, seek employment, or attend job training; and

Whereas, Based on the current SIS, the maximum income eligibility ranges from $31,860 for a family of 2 to $65,140 for a family of 6; and

Whereas, When available, the City provides tax levy funding to accommodate families exceeding the State eligibility maximum with incomes no greater than 275% SIS ($43,808 for a family of 2), 255% SIS ($51,230 for a family of 3), and 225% SIS ($54,563- $73,283 for a family of 4 or greater), according to the Administration for Children's Services (ACS), which is the City agency that issues child care vouchers; and

Whereas, Families receiving child care subsidies must contribute to the cost of child care, which is calculated as a percentage of the family's income above the Federal Poverty Level; and

Whereas, In New York City, low-income working families pay an estimated 35% of their income above the Federal Poverty Level for a child care subsidy, which adds up to $6,836 a year, according to a report issued by the Empire Justice Center; and

Whereas, Many low to moderate income working families who are not eligible for child care subsidies struggle with the cost of child care, according to a report issued by the New York State Assembly Child Care Workgroup; and

Whereas, Increasing the State's income eligibility for subsidized child care would help more children in New York City gain access to early childhood education; and

Whereas, The cost of living in New York City is one of the highest in the United States and the majority of families in New York State who depend on child care subsidies live in New York City; and

Whereas, Given these facts, the maximum State eligibility level should increase from 200% SIS overall to 375% SIS for a family size of 2 ($59,738), 355% SIS for a family of 3 ($71,320), and 300% SIS for families of 4 or greater ($72,750 - $97,710), which can benefit more families who struggle to meet child care payments; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the State of New York to amend the Social Services law in order to raise the income eligibility for child care subsidies, so more children of working families may have access to early childhood education services.

Referred to the Committee on General Welfare.

Preconsidered L.U. No. 206

By Council Member Ferreras:

Lands End I, Block 246, Lot 1; Manhattan, Community District No. 3, Council District No. 1.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Preconsidered L.U. No. 207

By Council Members Ferreras and Johnson:

Penn South, 212-226 9th Avenue (Block 747, Lot 1), 311-351 West 24th Street (Block 748, Lot 1), 250-268 9th Avenue (Block 749, Lot 1), 313 8th Avenue (Block 749, Lot 24), 270-296 9th Avenue (Block 751, Lot 1) and 305 9th Avenue (Block 752, Lot 1), Manhattan, Community District No. 4, Council District No. 3.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 208

By Council Member Greenfield:

Application No. 20155354 TCM pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of PACAP, LLC, d/b/a Monte-Carlo NYC, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 181 East 78th Street, Borough of Manhattan, Community Board 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 Section 20-226 of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 209

By Council Member Greenfield:

Application No. C 140404 ZSM submitted by 39 West 23rd Street, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to allow residential use and modify the bulk regulations in connection with the development of mixed use building with a 10-story segment and a 24-story segment on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th Street, within the Ladies' Mile Historic District, Borough of Manhattan, Community Board 5, Council District 3. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 210

By Council Member Greenfield:

Application No. C 140405 ZSM submitted by 39 West 23rd Street, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 13-45 and 13-451 of the Zoning Resolution to allow an automated accessory parking facility with a maximum capacity of 50 spaces on portions of the ground floor and sub cellar of a proposed mixed use building on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th Street, Borough of Manhattan, Community Board 5, Council District 3. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 211

By Council Member Greenfield:

Application No. N 150109 ZRK submitted by the Cherry Hill Gourmet Market pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX,

Chapter 4 (Special Sheepshead Bay District), Borough of Brooklyn, Community Board 15, Council District 48.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 212

By Council Member Greenfield:

Application No. C 150196 HAX submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law of New York State and Section 197-c of the New York City Charter for an Urban Development Action Area designation and Project for property located at 986-996 Washington Avenue a.k.a. 489-493 East 164th Street, Borough of the Bronx, and for the disposition of such property, Community Board 3, Council District 17.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 213

By Council Member Greenfield:

Application No. C 150197 ZSX submitted by New York City Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-902 of the Zoning Resolution to modify the floor area requirements to permit the allowable community facility floor area ratio to apply to a non-profit institution with sleeping accommodations in connection with a proposed 8-story building on property located at 986-996 Washington Avenue a.k.a. 489-493 East 164th Street, Borough of the Bronx, Community Board 3, Council District 17. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to Charter Section 197-d(b)(2) or called up by vote of the Council pursuant to Charter Section 197-d(b)(3).

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 214

By Council Member Greenfield:

Application No. C 150175 HAX submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the

General Municipal Law of New York State and Section 197-c of the New York City Charter for an Urban Development Action Area designation and Project for property located at 1561 Walton Avenue, Borough of the Bronx, and for the disposition of such property, Community Board 4, Council District 14.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 215

By Council Member Greenfield:

Application No. C 150174 PQX submitted by the New York City Department of Housing Preservation and Development pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at 1561 Walton Avenue, Borough of the Bronx, Community Board 4, Council District 14. This application is subject to the review and action by the Land Use Committee only if appealed to the Council pursuant to 197-d(b)(2) of the Charter or called up by a vote of the Council pursuant to 197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

At this point the Speaker (Council Member Mark-Viverito) made the following announcements:

ANNOUNCEMENTS:

Monday, April 20, 2015

★*Note Topic Addition*

Committee on **CULTURAL AFFAIRS, LIBRARIES & INTERNATIONAL INTERGROUP RELATIONS ....10:00 A.M.**

Int 742 - By Council Members Van Bramer, Cumbo, and Lander - A Local Law to amend the New York city charter, in relation to the community engagement process in the percent for art law.

Council Chambers – City Hall........................ James Van Bramer, Chairperson

Committee on **TECHNOLOGY...10:00 A.M.**

Int 673 - By Council Members Williams, Chin, Eugene, Rose, Dromm, Levine, Cumbo, Constantinides, Gibson, Dickens, Barron, Kallos, Johnson, Richards, King, Reynoso, Cornegy, Rosenthal, Maisel, Deutsch, Miller, Treyger and Espinal - A

Local Law to amend the administrative code of the city of New York, in relation to access to the translation feature of city websites.

Int 683 - By Council Members Garodnick, Vacca, Chin, Constantinides, Eugene, Gibson, Koo, Rose, Vallone, Koslowitz, Cohen and Rosenthal - A Local Law to amend the administrative code of the city of New York, in relation to requiring that local government websites are accessible to persons with disabilities

Committee Room – 250 Broadway, 14th Floor .... James Vacca, Chairperson

Committee on **CIVIL SERVICE AND LABOR** jointly with the
Committee on **WOMEN'S ISSUES ....1:00 P.M.**

Int 197 - By Council Members Johnson, Chin, Levine, Mendez, Wills, Rosenthal, Koslowitz, Rodriguez, Levin, Rose, Williams, Gibson, Cohen, Dickens, Van Bramer, Lancman, Richards, Cornegy, Espinal, Maisel, Dromm, Vallone, Miller, Reynoso, Kallos, Gentile, Ferreras, Lander, Garodnick, Torres, Palma, Vacca, Menchaca, Constantinides, Cumbo, Treyger, Crowley and Barron - A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to retaliatory personnel actions by employers and wage transparency.

Int 743 - By The Speaker (Council Member Mark-Viverito) and Council Members Lancman, Johnson, Levin, Ferreras and Miller - A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to the establishment of an office of labor standards.

Res 610 - By The Speaker (Council Member Mark-Viverito) and Council Members Dromm, Miller, Kallos, Levin, Johnson, Williams, Levine, Arroyo, Chin, Constantinides, Gibson, Lander, Palma, Richards, Rose, Koslowitz and Rosenthal - Resolution calling upon the New York State Legislature to pass, and the Governor to sign, legislation granting New York City the authority to set its own minimum wage.

Res 611 - By The Speaker (Council Member Mark-Viverito) and Council Members Miller, Arroyo, Chin, Gibson, Johnson, Lander, Palma, Richards, Rose, Koslowitz and Rosenthal - Resolution calling upon the New York State Legislature to pass and the Governor to sign, legislation to grant the City of New York the authority to enforce State worker protection laws.

Res 612 - By The Speaker (Council Member Mark-Viverito) and Council Members Torres, Lancman, Ferreras, Johnson, Miller, Arroyo, Chin, Constantinides, Gentile, Gibson, Lander, Palmer, Rose, Koslowitz, Rosenthal and the Public Advocate Ms. James - Resolution calling upon the New York State Legislature to pass and the Governor to sign, A.5501, strengthening the provisions of the Wage Theft Prevention Act.

Proposed Res 615-A - By Council Members Lancman, The Speaker (Council Member Mark-Viverito), Ferreras, Cumbo, Arroyo, Chin, Gentile, Gibson, Johnson, Lander, Richards, Rose, Rosenthal and Menchaca - Resolution calling upon the New York State Legislature to pass, and the Governor to sign, the Paid Family Leave Act to provide support and security for New York's working families

Res 649 - By Council Members Johnson and Cumbo - Resolution calling upon the New York State Assembly to pass, and the Governor to sign A.6075, which would

amend the labor law, in relation to the prohibition of differential pay based on gender.

Council Chambers – City Hall............................. I. Daneek Miller, Chairperson
.... Laurie Cumbo, Chairperson

Tuesday, April 21, 2015

Committee on **ECONOMIC DEVELOPMENT ....10:00 A.M.**
Oversight - The Economic Impact of the Federal Export-Import Bank in New York City
Committee Room – City Hall .... Daniel Garodnick, Chairperson

★*Note Topic Addition*
Committee on **HEALTH.. 10:00 A.M.**
Int 599 - By Council Members Vacca, Johnson, Koo, Gentile, Mendez and Rose – A Local Law to amend the administrative code of the city of New York, in relation to posting of information and warnings regarding anabolic steroids and human growth hormone in locker rooms
★Preconsidered Int___ - By Council Members Johnson and Crowley - A Local Law to amend the administrative code of the city of New York, in relation to technical changes to certain pet shop requirements, as added by local laws 5, 6, 7 and 8 for the year 2015.
Res 648 - By Council Members Constantinides and Johnson - Resolution recognizing this and every April as Organ Donation Awareness Month in the City of New York
Council Chambers – City Hall................................ Corey Johnson, Chairperson

Committee on **HOUSING AND BUILDINGS** jointly with the
Committee on **CONTRACTS ....1:00 P.M.**
Oversight – The Mayor's Housing Plan: Contractor Employment Practices and Accountability
Council Chambers – City Hall......................Jumaane D. Williams, Chairperson
....Helen Rosenthal, Chairperson

★*Deferred*
~~Committee on **JUVENILE JUSTICE ....1:00 P.M.**~~
~~Agenda to be announced~~
~~Committee Room – 250 Broadway, 14th Floor – Fernando Cabrera, Chairperson~~

Wednesday, April 22, 2015

★*Deferred*
~~Committee on **GENERAL WELFARE**..**10:00 A.M.**~~
~~Agenda to be announced~~
~~Committee Room – City Hall ....Stephen Levin, Chairperson~~

★*Deferred*
~~Committee on **PUBLIC HOUSING** .... **10:00 A.M.**~~
~~Oversight - NYCHA's Permanent Exclusion Policies and Practices~~
~~Council Chambers – City Hall .... Ritchie Torres, Chairperson~~

★*Note Topic Addition*
Committee on **PARK**s **AND RECREATION**. ....**1:00 P.M.**
Int 629 - By Council Members Levine, Cabrera, Richards, Rose, Rodriguez, Eugene, King, Palma, Treyger, Arroyo, Gibson, Rosenthal, Dromm and the Public Advocate (Ms. James) - A Local Law to amend the administrative code of the city of New York, in relation to the length of the season for city beaches and pools.
Committee Room – 250 Broadway, 14th Floor .... Mark Levine, Chairperson

Thursday, April 23, 2015

Subcommittee on **ZONING & FRANCHISES** ....**9:30 A.M.**
See Land Use Calendar
Committee Room – 250 Broadway, 16th Floor .... Mark Weprin, Chairperson

★*Note Topic Addition*
Committee on **AGING** jointly with the
Committee on **MENTAL HEALTH, DEVELOPMENTAL DISABILITY, ALCOHOLISM, DRUG ABUSE AND DISABILITY SERVICES** and
Committee on **TRANSPORTATION**..**10:00 A.M.**
Oversight - Transportation Services for Seniors and People with Disabilities in New York City
★Res 638 - By Council Members Ulrich, Arroyo, Cabrera, Chin, Constantinides, Deutsch, Eugene, Johnson, Levine, Rose, Vallone, Cohen, Levin, Koslowitz, Weprin, Williams and Richards - Resolution recognizing this and every April as Autism Awareness Month in the City of New York.
Council Chambers – City Hall ....Margaret Chin, Chairperson
....Andrew Cohen, Chairperson

.... Ydanis Rodriguez, Chairperson

Subcommittee on **LANDMARKS, PUBLIC SITING & MARITIME USES ....11:00 A.M.**
See Land Use Calendar
Committee Room – 250 Broadway, 16th Floor .... Peter Koo, Chairperson

★*Deferred*
~~Committee on **CONTRACTS .... 1:00 P.M.**~~
~~Agenda to be announced~~
~~Committee Room – 250 Broadway, 14th Floor .... Helen Rosenthal, Chairperson~~

★*Deferred*
~~Committee on **FIRE AND CRIMINAL JUSTICE SERVICES ..... 1:00 P.M.**~~
~~Agenda to be announced~~
~~Council Chambers – City Hall .... Elizabeth Crowley, Chairperson~~

Subcommittee on **PLANNING, DISPOSITIONS & CONCESSIONS .... 1:00 P.M.**
SEE LAND USE CALENDAR
Committee Room – 250 Broadway, 16th Floor Inez Dickens, Chairperson

Monday, April 27, 2015

Committee on **LAND USE ....11:00 A.M.**
All items reported out of the subcommittees
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
Committee Room – City Hall .... David G. Greenfield, Chairperson

★*Addition*
Committee on **LAND USE ....12:00 P.M.**
Oversight: Industrial Land Use and Zoning Policy - Challenges and Opportunities
Committee Room – City Hall David G. Greenfield, Chairperson

★*Addition*
Committee on **STATE AND FEDERAL LEGISLATION ....10:00 A.M.**
Agenda to be announced
Committee Room – 250 Broadway, 16th Floor ... Karen Koslowitz, Chairperson

Tuesday, April 28, 2015

Committee on **FINANCE ....10:00 A.M.**
Agenda to be announced
Committee Room – City Hall .... Julissa Ferreras, Chairperson

Stated Council Meeting.................................... Ceremonial Tributes – 1:00 p.m.
... Agenda – 1:30 p.m.

During the Communication from the Speaker segment of the Meeting, the Speaker (Council Member Mark-Viverito) acknowledged a number of special guests in the Chambers who had participated in the National Day of Action demonstrations of April 15, 2015. These marches in support for a fair minimum wage were staged across the City and the country. The Speaker (Council Member Mark-Viverito) introduced these participants to those assembled in the Chambers: Jose Sanchez, Shantel Walker, Martine Battaglia, Halstino Garcia, and Marcellino la Rosa. She thanked them all and wished them well.

Whereupon on motion of the Speaker (Council Member Mark-Viverito), the Deputy Leader (Council Member Gentile) adjourned these proceedings to meet again for the Stated Meeting on Tuesday, April 28, 2015.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council