



Legislation Text

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Int. No. 227-A

By Council Members Perkins, Felder and Baez (by request of the Mayor); also Council Member Stewart

A Local Law to amend the New York City charter and the administrative code of the city of New York, in relation to changing the name of the department of public health to the department of health and mental hygiene.

Be it enacted by the Council as follows:

Section 1. Subparagraph i of paragraph 2 of subdivision d of section 15 of the New York city charter, as amended by vote of the electors on November 6, 2001, is amended to read as follows:

2. There shall be mental retardation and developmental disability coordination within the office of operations. In performing functions relating to such coordination, the office of operations shall be authorized to: develop methods to: (i) improve the coordination within and among city agencies that provide services to people with mental retardation or developmental disabilities, including but not limited to the department of [public] health and mental hygiene, the administration for children's services, the human resources administration, department of youth and community development, the department of juvenile justice, and the department of employment, or the successors to such agencies, and the health and hospitals corporation and the board of education; and (ii) facilitate coordination between such agencies and non-governmental entities providing services to people with mental retardation or developmental disabilities; review state and federal programs and legislative proposals that may affect people with mental retardation or developmental disabilities and provide information and advice to the mayor regarding the impact of such programs or legislation; recommend legislative proposals or other initiatives that will benefit people with mental retardation or developmental disabilities; and perform such other duties and functions as the mayor

may request to assist people with mental retardation or developmental disabilities and their family members.

§2. The chapter heading of chapter 22 of the New York city charter, as amended by vote of the electors on November 6, 2001, is amended to read as follows:

CHAPTER 22

[DEPARTMENT OF PUBLIC HEALTH]

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

§ 3. Subdivision a of section 551 of the New York city charter, as amended by vote of the electors on November 6, 2001, is amended to read as follows:

a. There shall be a department of [public] health and mental hygiene, the head of which shall be the commissioner of [public] health and mental hygiene who shall be appointed by the mayor. The department shall have and exercise all powers of a local health department set forth in law. Notwithstanding any other provision of this charter to the contrary, the department shall be a social services district for purposes of the administration of health-related public assistance programs to the extent agreed upon by the department, the department of social services and the department of homeless services. Appropriations to the department for mental health, mental retardation and alcoholism services shall be set forth in the expense budget in separate and distinct units of appropriation. In determining the annual amount of city funds to be appropriated by the city for mental health, mental retardation and alcoholism services, the following provision shall apply: in the event that the executive budget proposes a decrease in city funds measured against the budget for the current fiscal year, as modified in accordance with section one hundred seven, for the units of appropriation for mental health, mental retardation and alcoholism services, the executive budget shall not propose a greater percentage decrease in city funds measured against the budget for the current fiscal year, as modified in accordance with section one hundred seven, for the units of appropriation for mental health, mental retardation and alcoholism services than has been proposed for

the units of appropriation for public health services. If, however, in his or her discretion, the mayor determines that it is in the city's best interest to submit an executive budget at variance with the requirements of this provision, the mayor shall include an explanation of the basis for this variation as part of the budget message.

§ 4. Subdivision d of section 558 of the New York city charter, as amended by vote of the electors on November 6, 2001, is amended to read as follows:

(d). The board of health shall prescribe in the health code that the parent with legal custody or legal guardian of any child receiving day care services as authorized in such code shall have unlimited and on demand access to such child or ward. The department of [public] health and mental hygiene shall make unannounced visits of such day care services if such board receives a complaint that, if true, would indicate that children in such services are not receiving adequate or appropriate care. Such board shall also prescribe in such code that during the period for which day care services are authorized upon any premises, the department shall whenever possible make at least one unannounced visit of every such premises annually.

§ 5. Section 564 of the New York city charter, as amended by the vote of the electors on November 6, 2001, is amended to read as follows:

§ 564. The department may sue and be sued in and by the proper name of "Department of [Public] Health and Mental Hygiene of the City of New York," and service of all process in suits and proceedings against or affecting the department, or other papers, may be made upon the commissioner or official designated by him, and not otherwise; except that, according to usual practice in other suits, papers in suits to which the department is a party may be served on the corporation counsel or such assistant as may be assigned by him to the department.

§ 6. Subdivision a of section 1057-a of the New York city charter, as amended by vote of the electors on November 6, 2001, is amended to read as follows:

a. Agency based voter registration. Each agency designated as a participating agency under the

provisions of this section shall implement and administer a program of distribution of voter registration forms pursuant to the provisions of this section. The following offices are hereby designated as participating voter registration agencies: The administration for children's services, the city clerk, the civilian complaint review board, the commission on human rights, community boards, the department of business services, the department of citywide administrative services, the department of consumer affairs, the department of correction, the department of employment, the department of environmental protection, the department of finance, the department of [public] health and mental hygiene, the department of homeless services, the department of housing preservation and development, the department of parks and recreation, the department of probation, the taxi and limousine commission, the department of transportation and the department of youth and community development. Participating agencies shall include a mandate in all new or renewed agreements with those subcontractors having regular contact with the public in the daily administration of their business to follow the guidelines of this section. Such participating agencies shall be required to offer voter registration forms to all persons together with written applications for services, renewal or recertification for services and change of address relating to such services; provided however that this section shall not apply to services that must be provided to prevent actual or potential danger to the life, health, or safety of any individual or of the public. Such agencies may provide assistance to applicants in completing voter registration forms, if so requested. Such agencies may also, in their discretion, receive and transmit the completed application form from any applicants who wish to have such form transmitted to the board of elections for the city of New York.

§ 7. Subdivisions a and e of section 1069 of the New York city charter, as amended by the local law number 1 of the year 2002, are amended to read as follows:

a. Pursuant to the provisions of this section, each agency designated as a participating agency under the provisions of this section shall implement and administer a program of distribution of the public health insurance program options pamphlet published by the department of [public] health and mental hygiene

pursuant to section 17-183 of the administrative code of the city of New York. The following offices are hereby designated as participating agencies: the administration for children's services, the board of education, the city clerk, the commission on human rights, the department for the aging, the department of correction, the department of employment, the department of homeless services, the department of housing preservation and development, the department of juvenile justice, the department of [public] health and mental hygiene, the department of probation, the department of social services/human resources administration, the taxi and limousine commission, the department of youth and community development, the office to combat domestic violence, and the office of immigrant affairs; provided, however, that the department of [public] health and mental hygiene, as it deems appropriate, may designate additional agencies to be participating agencies.

e. Each participating agency may establish procedures as they deem necessary to implement the local law that added this section. The commissioner or head of a participating agency, with the concurrence of the commissioner of the department of [public] health and mental hygiene, may exclude a program in whole or in part from the requirements of this section upon determining that the inclusion of such a program would not substantially further the purpose of the local law that added this section. The commissioner or head of each participating agency that administers programs receiving funds under the workforce investment act of 1998, as codified at 29 U.S.C. § 2801 et seq., shall, with the concurrence of the commissioner of the department of [public] health and mental hygiene, determine which workforce investment act offices providing workforce development services, including core and intensive services or substantive training funded in whole or in part by the city's share of funds provided under such workforce investment act, shall be required to fulfill the obligations of participating agencies under this section; such determination shall be based upon whether the inclusion of such offices would substantially further the purpose of the local law that added this section. A copy of each determination made pursuant to this subdivision shall be forwarded to the council and the mayor within thirty days of such determination.

§ 8. Paragraphs 1 and 3 of subdivision b of section 1403 of the New York city charter, as amended by vote of the electors on November 6, 2001, are amended to read as follows:

(1) The commissioner shall have charge and control over the location, construction, alteration, repair, maintenance and operation of all sewers including intercepting sewers and sewage disposal plants, and of all matters in the several boroughs relating to public sewers and drainage, and shall initiate and make all plans for drainage and shall have charge of all public and private sewers in accordance with such plans; and shall have charge of the management, care and maintenance of sewer and drainage systems therein. In addition, the commissioner shall have the authority to supervise and adopt rules regarding private sewage disposal systems, other than community private sewage disposal systems, and to prescribe civil penalties for the violation of such rules of no more than ten thousand dollars per violation, and, except as otherwise provided in section six hundred forty-three of this charter, to issue permits pursuant to such rules for the construction and maintenance of such private sewage disposal systems. With regard to community private sewage disposal systems, the commissioner shall have the authority to perform inspections, and to issue notices of violation for violations of any provisions of the New York city health code relating to private sewage disposal, which shall be served and returnable as provided by law for violations of the New York city health code, and the power to perform such other duties with regard to the supervision and regulation of such systems as may be lawfully delegated to him or her by the board of health or department of [public] health and mental hygiene.

(3) Nothing in this subdivision shall be construed to limit the authority or powers of the commissioner of [public] health and mental hygiene, the department of [public] health and mental hygiene, or the board of health relating to the declaration or abatement of nuisances, or the enforcement of applicable public health laws or rules.

§ 9. Subparagraphs a and e of paragraph 15 of subdivision a of section 2903 of the New York city charter, as amended by vote of the electors on November 6, 2001, are amended to read as follows:

(a) The commissioner shall issue a special vehicle identification parking permit to a New York city

resident who requires the use of a private automobile for transportation and to a non-resident who requires the use of a private automobile for transportation to a school in which such applicant is enrolled or to a place of employment, when such person has been certified by the department of [public] health and mental hygiene or a provider designated by the department or the department of [public] health and mental hygiene, who shall make such certification in accordance with standards and guidelines prescribed by the department or the department of [public] health and mental hygiene, as having a permanent disability seriously impairing mobility. A permit shall be issued to such person upon his or her application. A permit shall also be issued to such person upon application made on such person's behalf by a parent, spouse, domestic partner, guardian or other individual having legal responsibility for the administration of such person's day to day affairs. Any vehicle displaying such permit shall be used exclusively in connection with parking a vehicle in which the person to whom it has been issued is being transported or will be transported within a reasonable period of time. Such permit shall not be transferable and shall be revoked if used on behalf on any other person. Any abuse by any person to whom such permit has been issued of any privilege, benefit or consideration granted pursuant to such permit, shall be sufficient cause for revocation of said permit.

(e) Certifications by the department of [public] health and mental hygiene of applications for special vehicle identification permits shall be made at those district health offices designated for such purpose by the commissioner of [public] health and mental hygiene. At least one such district health office shall be designated in each borough for special vehicle identification permit certifications. Such certifications shall be available by appointment at each of said borough health offices, or an alternative location within the borough as designated by the commissioner by regulation, on a regular basis.

§ 10. Paragraph 1 of subdivision a of section 3-111 of the administrative code of the city of New York, as added by local law 58 of the year 1986, is amended to read as follows:

(1) The mayor shall appoint a drug enforcement and drug abuse task force which shall be chaired by the criminal justice coordinator and shall consist of, but not be limited to, representatives of the police

department; human resources administration; department of health and mental hygiene; department of correction; department of housing preservation and development; department of finance; department of probation; and the criminal justice coordinator.

§ 11. Section 5-303 of the administrative code of the city of New York is amended to read as follows:

5-303 Special provisions in proceedings for drainage of land by means other than sewers. In proceedings for the acquisition of real property for the drainage of land by means other than sewers, pursuant to an order of the department of health and mental hygiene, the time or times for the giving or publication of notices shall be one-half of that required in this subchapter for other proceedings, provided that any resultant one-half day shall be deemed a whole day. The time for the supreme court to hear objections to the tentative decree in any such drainage proceeding shall be two days.

§ 12. Subdivision 7 of section 11-2025 of the administrative code of the city of New York is amended to read as follows:

7. To publish and maintain, as it deems necessary, lists of specific items of tangible personal property which are found to be foods and drugs exempt from tax under paragraphs one and three of section 11-2006 of this subchapter. Assistance and cooperation in the formulation of such lists shall be provided by the department of health and mental hygiene upon request by the tax commission;

§ 13. Paragraph 2 of subdivision a of section 13-617 of the administrative code of the city of New York is amended to read as follows:

a. Except as provided in subdivision c of this section, all moneys collected from fines and penalties for violations of the health code or health laws in the city, including fines for violations of orders issued pursuant to sections 17-104, 17-107, 17-108 and 17-165 of the code and all moneys received from the issuance or granting of permits by the board of health of the department of health and mental hygiene and by the commissioner of health and mental hygiene pursuant to the health code.

§ 14. Subdivisions a, b, c, and d of section 14-119 of the administrative code of the city of New York

are amended to read as follows:

a. Department to cooperate with department of health and mental hygiene.

a. It shall be the duty of the department, and of its officers and members of the force, as the commissioner shall direct, to promptly advise the department of health and mental hygiene of all threatened danger to human life and health, and of all matters thought to demand its attention, and to regularly report to the department of health and mental hygiene all violations of its rules and ordinances, and of the health laws, and all useful sanitary information.

b. It shall be the duty of the department, by and through its proper officers, members and agents, to faithfully and at the proper time enforce and execute the sanitary rules and regulations, and the orders of the department of health and mental hygiene, made pursuant to the power of the department of health and mental hygiene, upon the same being received in writing and duly authenticated.

c. In and about the execution of any order of the department of health and mental hygiene, or of the department made pursuant thereto, members of the force shall have power and authority as when obeying any order of or law applicable to the department; but for their conduct they shall be responsible to the department and not to the department of health and mental hygiene. The department of health and mental hygiene may, with the consent of the department, impose any portion of the duties of subordinates in such department upon subordinates in the department.

d. The department is authorized to employ and use the appropriate persons and means, and to make the necessary expenditures for the execution and enforcement of the rules, orders and regulations of the department of health and mental hygiene, and such expenditures, so far as the same may not be refunded or compensated by the means herein elsewhere provided, shall be paid as the other expenses of the department of health and mental hygiene are paid.

§ 15. Section 14-120 of the administrative code of the city of New York is amended to read as follows:

14-120. The commissioner, upon the requisition of the department of health and mental hygiene, shall detail suitable officers to the service of such department of health and mental hygiene for the purpose of the enforcement of the provisions of the health code, and of the acts relating to multiple dwellings. Such officers shall belong to the sanitary company of police, and shall report to the department of health and mental hygiene. The department of health and mental hygiene may report back to the department for punishment any member of such company guilty of any breach of order or discipline or of neglecting his or her duty. Thereupon the commissioner shall detail another officer in his or her place. The discipline of such members of the sanitary company shall be in the jurisdiction of the department, but at any time the department of health and mental hygiene may object to any member of such company on the ground of inefficiency.

§ 16. Subdivisions a and c of section 16-120 of the administrative code of the city of New York are amended to read as follows:

a. The owner, lessee, agent, occupant or other person who manages or controls a building or dwelling shall provide and maintain in accordance with this section separate receptacles for the deposit of incinerator residue and ashes; refuse, and liquid waste. The receptacles shall be provided for the exclusive use of each building or dwelling and shall be of sufficient size and number to contain the wastes accumulated in such building or dwelling during a period of seventy-two hours. The receptacles shall be made of metal or other material of a grade and type acceptable to the department, the department of health and mental hygiene and the department of housing preservation and development. Receptacles used for liquid waste shall be constructed so as to hold their contents without leakage. Metal containers shall be provided with tight fitting metal covers.

c. Incinerator, residue, ashes, refuse and liquid waste shall be stored in the building or dwelling or at the rear of the building or dwelling as may be required by the department of health and mental hygiene or the department of housing preservation and development until time for removal and kept in tightly covered metal receptacles or containers made of other materials of a type and grade acceptable to the

department, department of health and mental hygiene, and the department of housing preservation and development. After the contents have been removed by the department or other collection agency any receptacles remaining shall immediately be removed from the front of the building or dwelling. The receptacles shall at all times be kept covered or closed and kept in a manner satisfactory to the department, the department of health and mental hygiene, and in the case of residential premises, the department of housing preservation and development. No receptacles, refuse, incinerator residue or ashes, or liquid waste shall be kept so as to create a nuisance. Yard sweepings, hedge cuttings, grass, leaves, earth, stone or bricks shall not be mixed with household wastes.

§ 17. Subdivision d, paragraph 5 of subdivision f, subdivision g, paragraph 1 of subdivision h, and subdivision l of section 16-201.1 of the administrative code of the city of New York, as amended by local law 75 of the year 1989, are amended to read as follows:

d. The commissioner in conjunction with the commissioner of health and mental hygiene shall promulgate and implement regulations, consistent with the laws of this state, governing the safe disposal of regulated household waste. Any violation of such regulations shall be punishable only by a civil penalty of not less than fifty dollars nor more than two hundred fifty dollars.

5. any other information required by regulation of the commissioner of the commissioner of health and mental hygiene.

g. The commissioner of sanitation or health and mental hygiene or an authorized agent of such commissioner may enter upon public or private property for the purpose of conducting inspections or investigations necessary for the exercise of the powers or the performance of the duties of such commissioners pursuant to this section, including the inspection of documents or records relating to the storage, treatment, transportation or disposal of regulated medical waste or other medical waste required to be maintained by local, state or federal law, provided that such commissioner or agent may not inspect records containing medical information privileged under the laws of this state without all authorizations

required by such laws, and that such commissioner or agent shall make reasonable efforts not to interfere with patient care activities. Such entry may be made without a warrant during regular and usual business hours upon property used for nonresidential purposes, including but not limited to the provision of health, medical, pharmaceutical or laboratory services, provided that such use is related to the generation, storage or disposal of regulated medical waste, or at other times upon such property in response to any immediate threat to the health or safety of one or more individuals, or of the public, that arises from the generation, storage or disposal of regulated medical waste upon such property. Warrantless inspection or investigation pursuant to this subdivision shall extend only to: (i) waste storage areas; (ii) documents or records relating to storage, treatment, transportation or disposal of regulated medical waste, including documents or records required to be maintained by local, state or federal law; (iii) bags and containers for the disposal of regulated medical waste; (iv) documents or records identifying the number and origin of specimens of human tissues, organs and fluids that constitute regulated medical waste, other than records containing medical information privileged under the laws of this state; and (v) any other inspection or investigation necessary to respond to an immediate threat to the health or safety of one or more individuals, or of the public, arising from generation, storage or disposal of regulated medical waste upon such property. Refusal to permit entry pursuant to this subdivision, where the commissioner of sanitation or health and mental hygiene or an authorized agent of such commissioner has obtained a warrant for such entry or is authorized by this subdivision to inspect or investigate without a warrant, shall be a misdemeanor punishable by not more than thirty days imprisonment, or by a fine of not more than one hundred dollars or both.

h. 1. In addition to any other enforcement procedures authorized by law, the commissioner, with the written approval of the commissioner of health and mental hygiene, shall be authorized to order in writing that premises on which activity in violation of this section is occurring be closed if the commissioner finds that continuing activity on such premises would result in generation, storage or disposal of regulated medical waste or other medical waste in a manner posing an imminent threat to the public health or safety, provided

that no facility licensed, permitted or certificated pursuant to article twenty-eight of the public health law or part thereof or facility providing inpatient services or part thereof may be closed pursuant to this subdivision. Such premises may be opened at any time by any person otherwise lawfully entitled to enter such premises in response to an immediate threat to the health or safety of one or more individuals, or of the public. For the purpose of this subdivision, the determination whether an imminent threat to the public health or safety exists shall be based on factors that include but are not limited to: (i) the quantity of regulated medical waste, the generation, storage or disposal of which is in violation of this section; (ii) the types of such regulated medical waste; and (iii) the risk of harm to the public or the environment.

1. In addition to the department, the department of health and mental hygiene shall enforce the provisions of this section, other than subdivisions h, j, and k of this section. This section shall not be construed to restrict in any manner the regulatory or enforcement authority conferred upon any agency of the city by any other provision of state or local law.

§ 18. Paragraph 1 of subdivision b of section 16-131.2 of the administrative code of the city of New York, as added by local law 40 of the year 1990, is amended to read as follows:

1. If the commissioner finds that premises for which a permit is required pursuant to section 16-130 of this chapter are being used either without such permit or in a manner which poses an imminent threat to the public health or safety, then the commissioner may order in writing that (a) such premises be sealed, secured and closed and/or (b) that equipment, vehicles or other personal property used on such premises be removed or sealed and secured. Upon the effective date of such order, no person shall have access to such premises and/or use such equipment except as authorized by the commissioner. Upon such effective date, authorized officers and employees of the department, the department of health and mental hygiene and the New York city police department shall act upon and enforce such order. The finding whether an imminent threat to the public health or safety exists shall be based on factors that include but are not limited to: (i) the quantity of solid waste, or of material listed in subparagraph (b) of paragraph one of subdivision a of

section 16-130 of this chapter, that may pose a threat; (ii) the types of solid waste, or of such material listed in such subparagraph, that may pose a threat; and/or (iii) the risk of harm to the public or the environment. For the purpose of this paragraph: "sealed, secured and closed" or "sealed and secured" shall mean the use of any means available to render the premises or any part thereof, and/or any equipment, vehicles or other personal property contained therein, inaccessible or inoperable, including but not limited to the use of a padlock or cinder blocks.

§ 19. The chapter heading of chapter 1 of title 17 of the administrative code of the city of New York is amended to read as follows:

DEPARTMENT OF HEALTH AND MENTAL HYGIENE

§ 20. Subdivisions b and c of section 17-101 of the administrative code of the city of New York are amended to read as follows:

(b) "Commissioner" means the commissioner of the department of health and mental hygiene.

(c) "Department" means the department of health and mental hygiene.

§ 21. Section 17-115 of the administrative code of the city of New York is amended to read as follows:

§ 17-115. Right of inspection. It is hereby made the duty of all departments, officers, and agents, having the control, charge or custody of any public structure, work, ground, or erection, or of any plan, description, outline, drawing or charts thereof, or relating thereto, made, kept or controlled under any public authority, to permit and facilitate the examination and inspection, and the making of copies of the same by any officer or person, authorized to do so by the department of health and mental hygiene.

§ 22. Subdivision c of section 17-123 of the administrative code of the city of New York, as added by local law 33 of the year 1986, is amended to read as follows:

c. The department of health and mental hygiene shall promulgate such regulations as it deems necessary to comply with the provisions of this section, with respect to the annual notice to tenants, and the notice requirement in all multiple dwelling leases.

§ 23. Section 17-171 of the administrative code of the city of New York is amended to read as follows:

17-171 Records of marriages on file with the department of health and mental hygiene; transfer to the city clerk; certification. a. The department is authorized to transfer to and the city clerk of the city of New York is authorized to receive and maintain all original records of marriages filed with the department or the office of the city inspector subsequent to the year eighteen hundred sixty-six together with the indexes to such records.

§ 24. Subdivision a of section 17-182 of the administrative code of the city of New York, as added by local law 16 of the year 2001, is amended to read as follows:

a. Any corporation of government, the expenses of which are paid in whole or in part from the city treasury, which provides health and medical services and operates health facilities and which is authorized to employ special officers having peace officer status as defined in New York Criminal Procedure Law § 2.10(40), shall utilize peace officers appointed pursuant to said subdivision to perform the duties of special officer, senior special officer and hospital security officer. The commissioner of the department of health and mental hygiene shall enforce this requirement.

§ 25. Subdivision d of section 17-327 of the administrative code of the city of New York is amended to read as follows:

d. Application for a license or the renewal of a license shall be made to the department of health and mental hygiene. Such application shall contain the name and address of the owner of the horse and of the owner of the rental horse business in which such horse is to be used if such person is not the owner of the horse, the age, sex, color, markings and any other identifying marks such as brands or tattoos of the horse, the location of the stable where the horse is to be kept and any other information which the commissioner of health and mental hygiene may require. An application with respect to a horse which is used in the operation of a "horse drawn cab" as defined in subchapter twenty-one of chapter two of title twenty of this code shall include the identification number required to be inscribed on such horses hoof pursuant to the rules and

regulations of the department of consumer affairs. The application shall be accompanied by the license or renewal fee.

§ 26. Subdivision n of section 17-330 of the administrative code of the city of New York, as added by local law 2 of the year 1994, is amended to read as follows:

n. Every horse required to be licensed hereunder shall be examined by a veterinarian prior to its use in a rental horse business and thereafter at intervals of not more than one year. The examination shall include the general physical condition of the horse, its teeth, hoofs and shoes, and its stamina and physical ability to perform the work or duties required of it. The examination shall also include a record of any injury, disease, or deficiency observed by the veterinarian at the time, together with any prescription or humane correction or disposition of the same. A signed health certificate by the examining veterinarian shall be maintained at the stable premises at which such horse is located. A copy of said certificate shall be mailed by the examining veterinarian to the department of health and mental hygiene.

§ 27. Subdivisions c and f section of 17-359 of the administrative code of the city of New York, as added by local law 12 of the year 1997, are amended to read as follows:

c. Each license issued pursuant to this subchapter and a sign in the form prescribed by the commissioner indicating a department of health and mental hygiene address or telephone number where customers may register complaints shall be posted in a conspicuous place on the premises where the licensee is applying tattoos.

f. All advertising by or for a licensee must contain the phrase "LICENSED BY THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE" and the license number of such licensee. For the purposes of this subdivision, an alphabetical listing in a telephone directory shall not be considered advertising.

§ 28. Section 17-407 of the administrative code of the city of New York is amended to read as follows:

17-407. Reports. The obstetrics or gynecology department of each hospital where sterilizations are performed, the administrator in charge of each clinic where sterilizations are performed, and physicians in private practice who perform sterilizations must submit monthly reports of the number of sterilizations performed to the department of health and mental hygiene. Forms will be provided by the department.

§ 29. Subdivisions f and g of section 17-502 of the administrative code of the city of New York, as amended by local law 5 of the year 1995, are amended to read as follows:

f. "Commissioner" means the commissioner of the New York City department of health and mental hygiene.

g. "Department" means the New York City department of health and mental hygiene.

§ 30. Subdivision c of section 17-601 of the administrative code of the city of New York, as added by local law 104 of the year 1989, is amended to read as follows:

c. "The department" shall mean the New York city department of health and mental hygiene.

§ 31. Paragraph 1 of subdivision d of section 17-609 of the administrative code of the city of New York, as added by local law 104 of the year 1989, is amended to read as follows:

(1) The board of education, in consultation with the department of health and mental hygiene, shall promulgate rules, which to the extent practicable are consistent with the procedures established by the United States department of transportation, to implement this chapter. Such rules shall include initial cutoff levels to be used when screening urine specimens to determine whether they test positive for illegal drugs, chain of custody procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition, specimen collection procedures, quality assurance and quality control programs, procedures governing the reporting and review of test results and procedures to safeguard the confidentiality of drivers.

§ 32. Subdivision b, subdivision c, paragraph 1 of subdivision e, and paragraph 2 of subdivision h of section 17-621 of the administrative code of the city of New York, as added by local law 83 of the year 1992,

are amended to read as follows:

b. (1) It shall be the responsibility of the holder of the right to place or display advertisements in or on a unit of advertising space (i) to maintain at all times the ratio of public health messages to tobacco advertisements required by this section; and (ii) to maintain accurate records indicating on a daily basis the number of tobacco advertisements and public health messages placed or displayed by such holder, the locations of such advertisements and public health messages, and any other information deemed necessary by the authorizing agency or the department of health and mental hygiene. Such holder shall provide to the city council and the authorizing agency for such unit a quarterly report containing the number of tobacco advertisements and public health messages placed or displayed by such holder during the preceding three months, the locations of such advertisements and public health messages, the dates on which such advertisements and public health messages were placed and displayed and any other information deemed necessary by the authorizing agency or the department of health and mental hygiene. The authorizing agency shall provide a copy of the quarterly report to the department of health and any analysis of such report deemed necessary by the department. Any such holders who are affiliated companies may combine their units of advertising space for purposes of complying with the ratio requirements, maintaining the daily records and providing the quarterly report, required by this section. Taxicabs which are part of a taxicab fleet or taxicab minifleet may be combined for purposes of complying with the ratio requirements, maintaining the daily records and providing the quarterly report, required by this section. For-hire vehicles affiliated with a for-hire vehicle base may be combined for purposes of complying with the ratio requirements, maintaining the daily records and providing the quarterly report, required by this section. In such cases, the owner of the taxicab fleet, taxicab minifleet or for-hire vehicle base shall comply with the ratio requirements, maintain the daily records and provide the quarterly report on behalf of the owners of the taxicabs or for-hire vehicles.

(2) The holder of the permit authorizing a special event shall provide a report to the authorizing agency containing the number, locations and dates of placement and display of (i) advertisements which promoted the

special event, identifying those advertisements which were tobacco advertisements; (ii) signage which was intended to discourage the use of tobacco products; and (iii) any public health messages. Such report shall also include any other information deemed necessary by the authorizing agency or the department of health and mental hygiene. The authorizing agency shall provide a copy of such report to the department.

c. The department of health and mental hygiene, together with the authorizing agencies, shall encourage the creation and submission of public health messages by interested individuals, groups or other entities. The authorizing agency for a unit of advertising space shall ensure that (i) at least twenty-five percent of the public health messages placed or displayed in or on such unit are directed to the youth population; and (ii) the ratio of public health messages to tobacco advertisements required by this section is achieved for such unit, through regular monitoring and enforcement activities.

(1) Any interested individual, group or other entity may submit a proposed public health message to the department of health and mental hygiene for approval. The department shall select for placement or display in or on a unit of advertising space those public health messages which it deems to communicate most effectively the health risks of tobacco product use or the health benefits of not using tobacco products. Such public health messages shall not use the name, image or likeness of any individual without the consent of that individual or shall not infringe any person's trade name, trademark, service mark or copyright, under applicable federal and state law. The department shall, to the greatest extent possible, select public health messages which are sufficiently different in visual images and text in order to ensure the holder of the right to place or display advertising an adequate selection of public health messages for placement or display in or on such holder's unit of advertising space. The department shall clearly indicate those public health messages which it deems to be directed to the youth population.

2. shall within ten days of the effective date of the local law that added this section, notify the authorizing agency for the unit of advertising space in writing of such person's inability to comply with subdivisions a through g of this section, setting forth in detail the reasons therefor and the earliest date upon

which compliance can be achieved. The authorizing agency shall, as soon as practicable after receipt of such information, forward it to the department of health and mental hygiene and the city council. Any person who fails to notify the authorizing agency as required by this paragraph or who knowingly submits information required by this paragraph which is false or misleading shall, in addition to any other penalties provided by law, be liable for a civil penalty of not more than one thousand dollars.

§ 33. Section 17-623 of the administrative code of the city of New York, as amended by local law 2 of the year 2000, is amended to read as follows:

17-623 Enforcement. The department of health and mental hygiene and the department of consumer affairs shall enforce the provisions of this chapter. In addition, designated enforcement employees of any authorizing agency and the department of finance shall have the power to enforce the provisions of this chapter.

§ 34. Subdivision b of section 17-624 of the administrative code of the city of New York, as amended by local law 2 of the year 2000, is amended to read as follows:

b. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of section 17-618, 17-619 or 17-620 of this chapter shall be commenced by the service of a notice of violation which shall be returnable to the administrative tribunal established by the board of health where the department of health and mental hygiene issues such notice or the adjudication division of the department of consumer affairs where that department or a designated employee of any authorizing agency or the department of finance issues such notice. Such notice shall contain a statement that any hearing for a second violation or subsequent violations of section 17-618, 17-619 or 17-620 at the same place of business within a two-year period shall also constitute a hearing for the revocation of a retail dealer's cigarette license where the retail dealer is found to be in violation of any such sections. Where the department of health and mental hygiene finds a retail dealer to be liable for a violation of section 17-618, 17-619 or 17-620 that department shall notify the department of consumer affairs within thirty days of such finding. Where the department of consumer affairs finds a retail dealer to be liable for a violation of section 17-

618, 17-619 or 17-620, that department shall notify the department of health within thirty days of such finding. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of section 17-621 or authorized pursuant to subdivision h of section 17-621 shall be returnable to the administrative tribunal established by the board of health. A proceeding to recover any civil penalty authorized pursuant to the provisions of subdivision a of this section for a violation of section 17-622 shall be returnable to the administrative tribunal established by the board of health. Such tribunal shall have the power to impose the civil penalties prescribed by subdivision a of this section or subdivision h of section 17-621 of this chapter. The adjudication division of the department of consumer affairs shall have the power to impose the civil penalties prescribed by subdivision a of this section for a violation of section 17-618, 17-619 or 17-620 of this chapter.

§ 35. Section 17-801 of the administrative code of the city of New York, as added by local law 26 of the year 2000, is amended to read as follows:

Legislative findings. The City Council hereby finds that New York City is experiencing a serious overpopulation of unwanted dogs and cats. This is a matter of serious concern affecting the public health, safety and welfare. The Center for Animal Care and Control, which operates animal shelters under contract with the City's Department of Health and Mental Hygiene, estimates that 67,000 unwanted, stray or abandoned dogs and cats entered its facilities in 1998. Of these animals, approximately seventy percent were not spayed or neutered. While wandering the City's streets, homeless dogs and cats reproduce at alarming rates, exacerbating a potentially unhealthy and dangerous situation. As a result of this situation, dog packs have formed in some areas, increasing numbers of individuals and animals are at risk for rabies, and many homeless animals have become the victims of vehicular accidents. These animals also suffer from lack of food and water and exposure to the elements. Given the large and growing number of unwanted dogs and cats, the Council finds that a law providing for a full-service animal shelter in each borough and the spaying and neutering of animals adopted from animal shelters or purchased from pet shops is necessary to protect the

health, safety and welfare of New York City residents. The Council also finds that with the advancement of medical knowledge over the past ten years, many veterinarians now advocate and practice early sterilization of pets, as early as eight weeks of age. Veterinarians at animal hospitals and humane shelters across the country, as well as the American Society for the Prevention of Cruelty to Animals, have performed thousands of early spay-neuter surgeries. Many veterinary associations now also agree that even though any surgery has inherent risks, kittens and puppies heal faster and are lower surgical risks than older animals who may be ill, in heat, or pregnant. If dogs or cats are spayed or neutered before adoption from a shelter or purchase from a pet shop, then the chance that they will add more unwanted offspring to the numbers that already exist will be eliminated.

§ 36. Subdivision h of section 19-136 of the administrative code of the city of New York, as amended by local law 72 of the year 1995, is amended to read as follows:

h. In addition to police officers, officers and authorized employees of the department, the department of consumer affairs, the department of health and mental hygiene, and the department of sanitation shall have the power to enforce the provisions of this section, other than subdivision j of this section, relating to the sale and display of goods, wares or merchandise in the public space.

§ 37. Subdivision d of section 19-137 of the administrative code of the city of New York, as amended by local law 104 of the year 1993, is amended to read as follows:

d. No condition shall be created or maintained as the result of land contour work that will interfere with existing drainage unless a substitute therefor is provided which is satisfactory to the commissioner and the commissioner of environmental protection in accordance with criteria established by such commissioners in consultation with the department of health and mental hygiene. Watercourses, drainage ditches, conduits and other like or unlike means of carrying off water or disposing of surface water shall not be obstructed by refuse, waste, building materials, earth, stones, tree stumps, branches or by any other means that may interfere with surface drainage or cause the impoundment of surface waters either within or

without the area on which contour work is performed. All excavations shall be drained and the drainage maintained as long as the excavation continues or remains. Where necessary, pumping shall be used. Fill material shall consist of inert, inorganic matter. It shall be unlawful to deposit garbage, waste paper, lumber or other organic material in land fill. The provisions of this section shall not prevent placement of organic matter for fill by the department of sanitation in locations under the jurisdiction of such department. The commissioner shall have the power, in consultation with the commissioner of buildings to adopt rules concerning the type of material that may be used for fill on land not mapped as park land. The commissioner shall enforce compliance with the provisions hereof, and shall make immediate complaint to the corporation counsel of any violation thereof. In addition, the commissioner of buildings shall similarly enforce compliance with the provisions hereof with respect to any land contour work performed pursuant to a permit issued by the commissioner of buildings, and in addition thereto shall inform the department of any failure to comply with a department of buildings violation order relating to the provisions hereof.

§ 38. Subdivision c of section 19-162.2 of the administrative code of the city of New York, as added by local law 40 of the year 1997, is amended to read as follows:

c. The volunteer ambulance service shall specify the requested geographic territory for each permit, which may not exceed the primary operating territory listed on the department of health and mental hygiene ambulance service registration or certification pursuant to section three thousand four of the public health law.

§ 39. Subdivision g of section 19-171 of the administrative code of the city of New York, as added by local law 5 of the year 2001, is amended to read as follows:

g. The department of health and mental hygiene shall distribute informational materials through the department's school health program, which shall include information explaining the hazards of operating scooters without protective headgear. These informational materials shall be printed in multiple languages and shall be made available to any member of the public upon request.

§ 40. Subparagraph C of paragraph 1 of subdivision d of section 20-202 of the administrative code of the city of New York, as amended by local law 30 of the year 2000, is amended to read as follows:

(C) the commissioner has not received notification from the commissioner of finance or the commissioner of the department of health and mental hygiene that such applicant is not in full compliance with any provisions of chapter thirteen of title eleven of this code, or chapter forty of title eleven of this code relating to the sale of cigarettes, or chapter seven of title seventeen of this code, or chapter eight of title seventeen of this code, or any rules promulgated by the commissioner of finance or the commissioner of the department of health and mental hygiene to effectuate the purposes of such chapters.

§ 41. Subdivision c of section 20-244 of the administrative code of the city of New York is amended to read as follows:

c. Each application shall be accompanied by a certificate from the department of health and mental hygiene certifying that the applicant is not suffering from any disease or infirmity which would render him or her unfit as a guide.

§ 42. Paragraph 3 of subdivision h of section 20-268 of the administrative code of the city of New York, as amended by local law 59 of the year 1996, is amended to read as follows:

(3) The commissioner shall cause periodic inspection to be made of the area and must be satisfied that such premises comply with all laws and rules and regulations of the department of buildings, the fire department, the department of transportation, the department of health and mental hygiene, and the department of environmental protection insofar as the same are applicable thereto. For purposes of facilitating the inspection prescribed by this section, the commissioner is authorized to call upon the heads of the above named departments and such departments and their employees shall make such inspections as may be required.

§ 43. Subdivision e of section 20-381.1 of the administrative code of the city of New York, as added by local law 2 of the year 1994, is amended to read as follows:

e. This section shall be enforced by the department and the department of transportation, with the

cooperation of the department of parks and recreation, the police department, the department of health and mental hygiene and the American Society for the Prevention of Cruelty to Animals.

§ 44. Subdivision c of section 20-465.1 of the administrative code of the city of New York, as added by local law 14 of the year 1995, is amended to read as follows:

c. Copies of any rules promulgated pursuant to this section shall be mailed to each licensed general vendor or licensed food vendor, by the department or the department of health and mental hygiene, respectively, by regular mail at the last home address provided by the vendor to the department or the department of health and mental hygiene and shall be annexed to each license or renewal issued to any general vendor or food vendor.

§ 45. Subdivision a of section 21-120.3 of the administrative code of the city of New York, as amended by local law 41 of the year 1994, is amended to read as follows:

a. Temporary task force on child care funding. a. Not later than thirty days from the effective date of this section as amended, there shall be a temporary task force on child care funding established by the mayor which shall consist of representatives of each city agency authorized to license, permit, fund, or otherwise regulate child care facilities or services and such other persons as shall be provided for in this section. City agency representatives to such task force shall include, but shall not be limited to, representatives of the human resources administration and the department of health and mental hygiene. The comptroller of the city of New York may designate a representative to serve on such task force. Additional members of such task force shall be appointed as follows: five members appointed by the speaker of the council and six, including the chairperson of the task force, by the mayor. Such additional members of the task force shall include, but shall not be limited to, representatives of child care providers. The members of the task force, including the chairperson, shall serve without compensation.

§ 46. Subdivision a of section 21-123 of the administrative code of the city of New York, as amended by local law 27 of the year 1991, is amended to read as follows:

a. There is hereby established a temporary commission on childhood and child caring programs consisting of fifteen members. The mayor shall appoint nine members, one of whom shall serve as chairperson. The speaker of the council shall appoint six members. None of the fifteen members appointed by the mayor or the speaker shall be elected officials or employees of the city of New York. In addition, the president of the council, the comptroller, the human resources administrator, the chancellor of the board of education of the city, the chairperson of the general welfare committee of the council, the commissioner of the department of health and mental hygiene of the city, the commissioner of the department of mental health of the city, the speaker of the council or his or her representative, and a representative from the office of the mayor shall each serve as a non-voting, ex-officio member of the commission or shall designate a person to serve in his or her place. The commissioner of the department of social services of the state of New York may, at his or her discretion, serve as a non-voting, ex-officio member of the commission or designate a person to serve in his or her place. Such commission shall have a duration of nine months. The members of the commission shall be appointed within thirty days of the effective date of this section. Each member, including each ex-officio member, shall serve without compensation for the duration of the commission.

§ 47. Subdivision e of section 21-312 of the administrative code of the city of New York, as added by local law 19 of the year 1999, is amended to read as follows:

e. The commissioner shall submit to the speaker of the council quarterly reports summarizing the health, sanitation, safety and fire protection-related deficiencies identified in any inspection of a shelter for adults conducted by any state agency, including but not limited to the office of temporary and disability assistance, the office of children and family services, and the New York state department of health; and any city agency including, but not limited to, the New York city fire department, the New York city department of health and mental hygiene, and the New York city department of buildings; any other government agency; and any organization appointed by any court. The first such report shall be due thirty business days following the calendar quarter ending September thirtieth, nineteen hundred and ninety-eight and all subsequent reports shall

be due thirty business days following the last day of each succeeding calendar quarter. Such quarterly reports shall include, but not be limited to, the following:

§ 48. Section 24-102 of the administrative code of the city of New York, as amended by local law 39 of the year 1989, is amended to read as follows:

24-102. It is hereby declared to be the public policy of the city to preserve, protect and improve the air resources 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 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.

§ 49. Subdivision 48 of section 24-104 of the administrative code of the city of New York is amended to read as follows:

(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.

§ 50. Section 24-202 of the administrative code of the city of New York, as amended by local law 18 of the year 1993, is amended to read as follows:

24-202. It is hereby declared to be the public policy of the city to reduce the ambient noise level in the city, so as to preserve, protect and promote the public health, safety and welfare, and the peace and quiet of the inhabitants of the city, prevent injury to human, plant and animal life and property, foster the convenience and comfort of its inhabitants, and facilitate the enjoyment of the natural attractions of the city. It is the public policy of the city that every person is entitled to ambient noise levels that are not detrimental to life, health and enjoyment of his or her property. It is hereby declared that the making, creation or maintenance of excessive and unreasonable noises within the city affects and is a menace to public health, comfort, convenience, safety, welfare and the prosperity of the people of the city. For the purpose of controlling and reducing such noises, it is hereby declared to be the policy of the city to set the unreasonable noise standards and decibel levels contained herein and to consolidate certain of its noise control legislation into this code. The necessity for legislation by 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 or the right of the department of health and mental hygiene to engage in any of its necessary or proper activities. Nothing herein shall abridge the powers and responsibilities of the police department to enforce the provisions of this code.

§ 51. Subdivisions c and e of section 24-503 of the administrative code of the city of New York are amended to read as follows:

c. The commissioner of environmental protection shall submit such map or plan simultaneously to the department of health and mental hygiene, the director of city planning, each affected community board and

the office of the appropriate borough president. The department of health and mental hygiene shall review such map or plan with respect to the creation or abatement of any health hazard. Such department shall file a statement with the commissioner of environmental protection and the director of city planning, in relation to such map or plan, within fifteen days subsequent to such submission either approving or disapproving such map or plan.

e. Copies of such map or plan as approved in accordance with the provisions of this section shall be filed by the commissioner of environmental protection in each county office of record, the community board for the community in which any portion of such map or plan is situated and the office of the borough president in which any portion of such map or plan is situated within the city of New York and in the offices of the department of transportation and department of health and mental hygiene of such city.

§ 52. Section 24-602 of the administrative code of the city of New York, as added by local law 42 of the year 1987, is amended to read as follows:

24-602. Declaration of policy. It is hereby declared to be the public policy of the city to respond to emergencies caused by releases or threatened releases of hazardous substances into the environment so as to preserve, protect and improve the public health, safety and welfare, and to prevent injury to human, plant and animal life and property. It is the policy of the city that every person is entitled to an environment free of hazardous substances that are detrimental to life, health, and enjoyment of property. It is hereby declared that the release or threat of release of hazardous substances into the environment is a menace to the health, safety and welfare of the people of the city and may cause extensive damage to the environment and to property. This chapter shall be liberally construed so as to effectuate the purposes described in this section. Nothing herein shall be construed to abridge the powers of the board of health or the department of health and mental hygiene to engage in any of their authorized activities.

§ 53. Subdivision f of section 25-303 of the administrative code of the city of New York, as amended by local law 71 of the year 1991, is amended to read as follows:

f. Within ten days after making any such designation or amendment thereof, the commission shall file a copy of same with the council, the department of buildings, the city planning commission, the board of standards and appeals, the fire department and the department of health and mental hygiene.

§ 54. Subdivisions a and b of section 25-312 of the administrative code of the city of New York are amended to read as follows:

25-312 Remedying of dangerous conditions. a. In any case where the department of buildings, the fire department or the department of health and mental hygiene, or any officer or agency thereof, or any court on application or at the instance of any such department, officer or agency, shall order or direct the construction, reconstruction, alteration or demolition of any improvement on a landmark site or in an historic district or containing an interior landmark, or the performance of any minor work upon such improvement, for the purpose of remedying conditions determined to be dangerous to life, health or property, nothing contained in this chapter shall be construed as making it unlawful for any person, without prior issuance of a certificate of no effect on protected architectural features or certificates of appropriateness or permit for minor work pursuant to this chapter, to comply with such order or direction.

b. The department of buildings, fire department or department of health and mental hygiene, as the case may be, shall give the commission as early notice as is practicable, of the proposed issuance or issuance of any such order or direction.

§ 55. Paragraph a of subdivision 6 of section 26-301 of the administrative code of the city of New York is amended to read as follows:

a. There shall be an interagency relocation coordinating committee, which shall consist of a deputy mayor designated by the mayor, and representatives of the department of buildings, the department of city planning, department of health and mental hygiene, the department of housing preservation and development, the New York city housing authority, the commission on human rights, the board of education, the triborough bridge and tunnel authority and the department of social services. Each such board, authority, commission

or agency and the head of each such department shall appoint as a representative one officer or employee who is a member of the staff of such board, authority, commission, department or agency and is qualified to participate in the functions of the committee as herein prescribed. Such representatives shall represent their respective agencies as members of the committee. The deputy mayor designated by the mayor as a member of such committee shall be its chairperson. It shall advise the commissioner of housing preservation and development for the purpose of assisting the commissioner in developing a relocation program for the city which will best serve the public interest. The members of the committee shall serve as such without additional compensation.

§ 56. Subdivision 2 of section 27-139 of the administrative code of the city of New York, as amended by local law 65 of the year 1996, is amended to read as follows:

2. In the event that a private sewage treatment plant is proposed, evidence of submission of plans for approval of such plant to the department of environmental protection and the department of health and mental hygiene as required by law.

§ 57. Paragraph 4 of subdivision c of section 27-157 of the administrative code of the city of New York, as amended by local law 65 of the year 1996, is amended to read as follows:

(4) In the event a public sewer system is not available, alternate provisions for disposal of storm water and sanitary sewage. If private sewers are to be constructed pursuant to subdivision b of section fourteen hundred three of the New York city charter, a copy of the sewer plan. If a private sewage treatment plant is to be constructed, a copy of plans of the plant approved by the department of health and mental hygiene and the department of environmental protection. If an individual on site private sewage disposal system is to be installed, a site and subsoil evaluation indicating that the site and subsoil conditions comply with the applicable law and rules.

§ 58. The definition of "POTABLE WATER" as set forth in section 27-232 of the administrative code of the city of New York is amended to read as follows:

POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the department of health and mental hygiene.

§ 59. Subdivisions f and v of section 27-901 of the administrative code of the city of New York are amended to read as follows:

(f) Well water systems. No well or individual water supply may be installed for any purpose without the approval of the commissioner and of the department of health and mental hygiene and the department of environmental protection.

(v) Protection of ground and surface water. Sewage or other waste shall not be discharged into surface or subsurface water unless it has been discharged by a method subject to the approval of the commissioner and of the department of health and mental hygiene and the department of environmental protection.

§ 60. Section 27-915 of the administrative code of the city of New York is amended to read as follows:

27-915 Operation. No swimming pool regulated by the provisions of this code shall be operated without a permit from the department of health and mental hygiene.

§ 61. Subdivision a of section 27-2021 of the administrative code of the city of New York is amended to read as follows:

a. The owner or occupant in control of a dwelling shall provide and maintain metal cans, or other receptacles jointly approved as to specifications by the department, the department of sanitation and the department of health and mental hygiene, for the exclusive use of each building, which shall be of sufficient size and number to contain the wastes accumulated in such building during a period of seventy-two hours. No receptacle shall be filled to a height so as to prevent the effective closure thereof and no receptacle shall weigh more than one hundred pounds when filled. The receptacles shall be so constructed as to hold their contents without leakage. Metal cans shall be provided with tight-fitting covers and other receptacles shall be

effectively closed. When requested by the department of sanitation, the owner or occupant in control shall separate and place in separate receptacles, ashes, organic and inorganic wastes. Nothing contained in this subdivision shall prevent the department, the department of sanitation and the department of health and mental hygiene from jointly approving as to specifications other systems for the disposal of waste utilizing containers of larger size and different construction as may be appropriate for such systems.

§ 62. Paragraph (iii) of subdivision e of section 27-2034 of the administrative code of the city of New York is amended to read as follows:

(iii) approved by the department of health and mental hygiene. All accessories or control devices for use with such heaters shall have proof of such listing.

§ 63. Subdivision a and subparagraph iv of paragraph 2 of subdivision b of section 27-2056.3 of the administrative code of the city of New York, as added by local law 38 of the year 1999, are amended to read as follows:

a. The owner of a multiple dwelling erected prior to January first, nineteen hundred sixty shall provide to an occupant of a dwelling unit in such multiple dwelling at the signing of the lease, if any, or upon any agreement to lease, or at the commencement of occupancy if there is no lease, a notice inquiring as to whether a child under six years of age resides or will reside therein. The occupant shall have the duty to complete such notice at the time of such signing or agreement or at the commencement of such occupancy. Such notice must be printed on a single form and in a manner approved by the department, the content of which shall be in English and Spanish at a minimum. The pamphlet developed by the department of health and mental hygiene pursuant to section 17-179 of the administrative code shall be delivered by the owner to the occupant of a dwelling unit in a multiple dwelling at the time the occupant signs a lease to reside in such multiple dwelling unit, or if there is no lease, at the commencement of occupancy.

(iv) by delivering said notice in conjunction with the annual notice required pursuant to section 17-123 of the administrative code and the regulations of the department of health and mental hygiene pertaining to

the installation of window guards.

§ 64. Paragraph 12 of subdivision b of section 27-2056.5 of the administrative code of the city of New York, as amended by local law 38 of the year 1999, is amended to read as follows:

(12) when lead-based paint hazards have been corrected on any interior wood trim or door, a surface dust test shall be conducted on the floor immediately adjacent to the work area. In addition, when lead-based paint hazards have been corrected on any interior wood trim or door on, near or immediately adjacent to a window, a surface dust test shall be conducted on the window sill and window well immediately adjacent to the work area. In addition, when lead-based paint hazards have been corrected on any window, a surface dust test shall be conducted on the floor, window sill and window well immediately adjacent to the work area. Any surface dust tests required pursuant to this subdivision shall be conducted after final clean-up, and after any repainting, if necessary, has been completed. All such surface dust tests shall be completed by an individual who has passed a course approved by the department of health and mental hygiene on how to conduct a surface dust wipe test. All such surface dust test samples shall be forwarded to an independent state certified laboratory for analysis; and

§ 65. Subdivisions c and e of section 27-2056.7 of the administrative code of the city of New York, as added by local law 38 of the year 1999, are amended to read as follows:

c. The pamphlet developed by the department of health and mental hygiene pursuant to section 17-179 of the administrative code shall be left at the premises of the dwelling unit at the time of an inspection made by the department pursuant to this section.

e. The department shall develop a notice which shall be addressed to the unit in the multiple dwelling for which such violation was issued. Such notice shall include a telephone number for the department of health and mental hygiene. The department shall also refer to the department of health and mental hygiene the address of the unit in the multiple dwelling for which such violation was issued, the name of the complainant, if any, and the complainant's telephone number, if available. The department of health, pursuant to section

17-179 of the administrative code, shall refer to appropriate medical providers any person who requests assistance in blood lead screening, testing, diagnosis or treatment, and upon the request of a parent or guardian, arrange for blood lead screening of any child who requires screening and whose parent or guardian is unable to obtain a lead test because the child is uninsured or the child's insurance does not cover such screening.

§ 66. Section 27-2056.9 of the administrative code of the city of New York, as added by local law 38 of the year 1999 is amended to read as follows:

27-2056.9 Compliance by Departments and Remedies. Notwithstanding any provision of law to the contrary, the sole remedy against the city of New York, the department, or the department of health and mental hygiene, or any officer or employee of such city or departments, by any person for the failure to perform any regulatory duty related to a lead-based paint hazard pursuant to this chapter shall be a proceeding pursuant to article seventy-eight of the civil practice law and rules to compel compliance with such chapter. An action or proceeding may be brought against the department or the department of health and mental hygiene to compel compliance by such departments with this article and the rules and procedures promulgated pursuant thereto. Nothing in this section shall be deemed to prevent any tenant or group of tenants from bringing a proceeding authorized by subdivisions h and i of section 27-2115 of the administrative code.

§ 67. Subdivisions a, b, and d of section 27-2126 of the administrative code of the city of New York, subdivision b as amended and subdivision d as added by local law 38 of the year 1999, are amended to read as follows:

27-2126 Registration of lead paint violations; enforcement. a. The department shall maintain a register in each borough of all certifications of lead paint violations made to it by the department of health and mental hygiene and such register shall also be open to the public. The department of health and hygiene shall maintain a register in each borough for recording all complaints, inspections, examinations and laboratory tests with respect to lead paint levels in housing accommodations which are determined to be

violations. Such register shall indicate the date of the complaint, the address of the dwelling premises, the action taken pursuant thereto and shall be open for inspection to the public.

b. If the owner of a multiple dwelling fails to comply with an order of the department of health and mental hygiene to correct lead-paint hazards, the department of health and mental hygiene shall certify such conditions to the department. The procedure of certification shall be completed within sixteen days from receipt of complaint or inspection or examination, whichever occurs first. The conditions so certified shall be corrected within eighteen days of certification to the department. If such conditions are not corrected within the eighteen days after certification by the department of health and mental hygiene to the department and continue to exist in excess of seventy-two hours thereafter and are also the subject of an article seventy-eight proceeding commenced by the tenants, the supreme court, after a hearing which shall be held under subdivision (h) of section seven thousand eight hundred four of the civil practice law and rules, shall order and direct the department to correct such conditions within a period fixed by the court which shall not exceed the minimum time reasonably required to remedy such conditions.

d. Notwithstanding any provision of law to the contrary, the sole remedy against the city of New York, the department, or the department of health and mental hygiene, or any officer or employee of such city or departments, by any person for the failure to perform any regulatory duty pursuant to this section shall be a proceeding pursuant to article seventy-eight of the civil practice law and rules to compel compliance with such section. Nothing in this section shall be deemed to prevent any tenant or group of tenants from bringing a proceeding authorized by subdivisions h and i of section 27-2115 of the administrative code.

§ 68. This local law shall take effect immediately and shall be deemed to have been in effect as of July 1, 2002.