

THE COUNCIL

Minutes of the Proceedings for the

STATED MEETING

of

Tuesday, December 19, 2017, 3:10 p.m.

The Public Advocate (Ms. James)

Acting President Pro Tempore and Presiding Officer

Council Members

Melissa Mark-Viverito, *Speaker*

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

Absent: Council Member Miller.

The Public Advocate (Ms. James) 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 Public Advocate (Ms. James).

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. T. Kenjitsu Nakagaki, Buddhist Council of New York.

As we celebrate the holiday seasons,
let us keep the holiday spirit of hope, wisdom,
love, compassion and peace in our mind.
Hanukkah for Jews,
Christmas for Christians celebrated widely,
Muslim friends celebrate the birthday of Prophet Mohammed on December 1st this year,
and Buddhists celebrate the Day of the Enlightenment on December 8th.
December is, indeed, a special month for many religions.
As the New York City is filled with many lights in this season,
which can represent a light of hope, a light of wisdom,
a light of love, and a light of compassion and a light of peace.
Each of us should nurture such lights within,
which eventually brighten our city.
Join me in meditation.
So, close your eyes
and breathe in and out slowly and deeply
using your lower stomach.
As I offer the moment of silence,
let us nurture the light of hope, light of wisdom,
light of love and compassion, and the light of peace within ourselves,
and as I ring this bell, you turn on mind lights.

[bell rings multiple times]

May these lights become the source of our wholesome actions
for the true benefit for New Yorkers.

[Chanting]

Peace and blessings to all of you, and have Happy Holidays.

Thank you.

Council Member Garodnick moved to spread the Invocation in full upon the record.

During the Communication from the Speaker segment of this Meeting, the Speaker (Council Member Mark-Viverito) asked for a Moment of Silence in memory of the following individuals:

John Brian Murtaugh, former Assembly Member from Manhattan, died on December 10, 2017. He served the residents of the 72nd Assembly District in the Upper Manhattan area including his Inwood neighborhood until he left office in 1997. The Speaker (Council Member Mark-Viverito) noted that he would be remembered fondly.

The Azan family lost four of its members in a house fire in Sheepshead Bay, Brooklyn on December 18, 2018 which was caused by a lit *menorah*. Those who died included mother Aliza, 39, and three of her children, Moshe, 11, Yitzah, 7, and Henrietta, 3. Father Yosi, 45, and his two teenage children, Shilat, 16, and Daniel, 15, were among those seriously injured and hospitalized. The Speaker (Council Member Mark-Viverito) offered her thoughts and prayers to Yosi Azan and the entire Azan family. At this point, the Speaker (Council Member Mark-Viverito) yielded the floor to Council Member Deutsch who spoke of this tragedy that took place in his district.

ADOPTION OF MINUTES

On behalf of Council Member Torres, the Public Advocate (Ms. James) moved that the Minutes of the Stated Meeting of November 16, 2017 be adopted as printed.

REPORTS OF THE STANDING COMMITTEES

Report of the Committee on Aging

Report for Int. No. 1185-A

Report of the Committee on Aging 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 providing certain information to users of life-sustaining equipment and individuals for whom a disruption in electrical service would create a medical emergency.

The Committee on Aging, to which the annexed proposed amended local law was referred on March 25, 2016 (Minutes, page 1472), respectfully

REPORTS:

INTRODUCTION

On December 18, 2017, the Aging Committee, chaired by Council Member Margaret Chin, will consider Proposed Int. No. 1185-A, a Local Law to amend the administrative code of the city of New York, in relation to providing certain information to users of life-sustaining equipment and individuals for whom a disruption in electrical service would create a medical emergency, and Proposed Int. No. 1616-A, a Local Law in relation to establishing a temporary task force on post-incarceration reentry for older adults. This is the second hearing on these bills. The first hearing was held on September 20, 2017, at which the Committee heard testimony from the Department for the Aging (DFTA), the Mayor's Office of Criminal Justice (MOCJ), advocates, and other interested stakeholders.

Life Sustaining Equipment

There are approximately 1.55 million individuals over the age of 60 living in New York City.¹ In 2014, there were over 400,000 older New Yorkers who reported some form of disability, 20 percent of whom have conditions that restrict their ability to go outside the home, shop, or visit a doctor.² Older individuals who choose to age in their homes may rely on some form of life sustaining equipment (LSE), such as at home respirators, ventilators, or dialysis machines.³ Seniors who rely on this equipment are particularly vulnerable if they were to lose electricity in their home due to an unforeseen power disruption.

New York State Law requires utility companies such as Con Edison to send a form once a year to all of their customers with instructions on how to register that a member of the household uses a form of life support equipment (including dialysis machines, respirators, or apnea monitors) or has a medical hardship.⁴ New York State Law further requires utility companies to maintain a list of customers who use life sustaining equipment; that list must be included in the electrical company's system emergency plan.⁵ In case of an electrical outage or emergency threatening electrical service, the utility company will contact listed customers who may be affected.⁶ Con Edison also notifies customers on its list from time to time about the need to plan for possible electrical outages.⁷ This program is available even if utilities are included in an individual's rent.⁸ Con

¹ N.Y.C. Department for the Aging Annual Plan Summary 2017-2018 (September 2017), *available at* <http://www.nyc.gov/html/dfta/downloads/pdf/DFTAAnnualPlanSummary2016.pdf>.

² *Id.*

³ N.Y.C. Office of Emergency Management: Get Prepared Disabilities, Access and Functional Needs, *available at* <https://www1.nyc.gov/site/em/ready/disabilities-access-functional-needs.page>.

⁴ N.Y.S. Public Service Law Article 4 §65

⁵ N.Y.S. Public Service Law Article 4 §65 (12)

⁶ *Id.*

⁷ Con Edison Safety for Special Customers Life-Sustaining Equipment & Medical Hardships, *available at* https://legacyold.coned.com/customercentral/brochures/br_safety%20For%20Special%20Customers.pdf.

⁸ *Id.*

Edison advises customers who use life sustaining equipment to have an alternate source of electric power, such as a battery back-up system, and a variety of telephone options available in case of an power outage.⁹

Even if a customer is low-income or is unable to pay their utility bill, the New York State Public Service Commission Rules dictate that utility companies cannot terminate the service of an individual who uses a life support device or has a serious medical condition.¹⁰ The customer must have a doctor or local board of health send certification to the utility company and once approved the utility company will not shut off service during a person's health emergency.¹¹ In order to prepare for any potential emergencies that could result in major power outages, the New York City Office of Emergency Management (OEM) states on their website that users of medical equipment should ask their utility provider if that fact qualifies them to be a priority customer.¹²

Proposed Int. No. 1185-A would require DFTA to regularly provide written materials from New York City Emergency Management to all senior centers and naturally occurring retirement communities sponsored by DFTA on how to register with utility companies as an individual who uses life-sustaining medical equipment or for whom a disruption in electrical service would create a medical emergency. The materials would also be posted on DFTA's website and the website of the Mayor's Office for People with Disabilities.

Post Incarceration Reentry

Although the overall prison population in New York State has declined in recent years, there has been a substantial rise in the number of older incarcerated adults. From 2007 to 2016, the overall prison population declined by 17.3 percent, while the number of inmates aged 50 or older rose by 46 percent.¹³

Many older adults serving prison sentences have grown old while incarcerated. Thus, re-entering civilian life can be a kin to the experience a time-traveler would face.¹⁴ Although most individuals released from prison struggle with the same issues upon leaving prison (such as a finding a place to live and a job), older adults face particular challenges, including greater rates of homelessness, unemployment, and chronic medical conditions.¹⁵ This is due, in part, to the fact that people age more rapidly behind bars; a 50 year old person released from prison is physiologically 10 to 15 year older.¹⁶ Further, 40 percent of older prisoners have been diagnosed with a cognitive impairment while in prison creating even more challenges for this population to reenter civil society.¹⁷

Proposed Int. No. 1616-A would establish a task force focused specifically on post-incarceration reentry for older adults and would require the task force issue recommendation to the coordinator of criminal justice or the mayor's designee who would then issue a report to the mayor and speaker regarding, among other things, (1) an analysis of the root causes of incarceration for older adults, and proposals to reduce the rates of incarceration for older adults; (2) an analysis of re-entry services for older adults; and (3) any other recommendations to assist in developing a compassionate post-incarceration older adult reentry policy, including but not limited to potential legislative reforms.

ANALYSIS OF PROPOSED INT. NO. 1185-A

Section one of Proposed Int. No. 1185-A would amend the Administrative Code of the City of New York by adding a new section 21-207 to Chapter 2 of Title 21.

The new section would require DFTA to regularly provide written materials from New York City Emergency Management to all senior centers and naturally occurring retirement communities sponsored by

⁹ *Id.*

¹⁰ NYCRR 16 §11.5.a

¹¹ *Id.*

¹² *Id.* at 13.

¹³ Office of the New York State Comptroller, New York State's Aging Prison Population (April 2017), available at <http://osc.state.ny.us/reports/aging-inmates.pdf>.

¹⁴ Kelly, Eileen and Rudin, Danylle, Growing Old is Hard Enough: Prison, Jail, and Post-Release Life for Older Adults (August 2017), available at <http://www.gih.org/Publications/ViewsDetail.cfm?ItemNumber=8958>.

¹⁵ The High Costs of Low Risk: The Crisis of American's Aging Prison Population, The Osbourne Association (July 2014), available at <http://www.osborneny.org/news/unite-for-parole-and-prison-justice/osborne-aging-white-paper/>.

¹⁶ *Id.*

¹⁷ *Id.*

DFTA on how to register with utility companies as an individual who uses life-sustaining medical equipment or for whom a disruption in electrical service would create a medical emergency. The materials would also be posted on DFTA's website and the website of the Mayor's Office for People with Disabilities.

Section two of Proposed Int. No. 1185-A would provide that the local law take effect 30 days after its enactment.

ANALYSIS OF PROPOSED INT. NO. 1616-A

Section one of Proposed Int. No. 1616-A would establish a temporary task force to address issues related to older adults reentering society after being incarcerated required by subdivision a.

New subdivision b would establish the membership of the committee denoting at least 12 members to serve on the task force. Eight members would be appointed by the mayor, chosen from individuals representing relevant city agencies, provider organizations and advocacy groups, and individuals representing impacted communities. At least three of the eight mayoral appointments would be formerly incarcerated individuals. Four members would be appointed by the speaker, chosen from individuals representing provider organizations and advocacy groups, individuals representing impacted communities, and academics with expertise in post-incarceration reentry for older adults. In addition, the coordinator of criminal justice or the mayor's designee would be required to invite the State to designate a representative to serve on the task force.

New subdivision c would establish that serving on the task force would not constitute holding public office and that task force members would not be required to take and file oaths of office before serving on the task force. New subdivision c would also establish that the task force members would not be paid for serving on the task force.

New subdivision d would require the task force to meet at least four times per.

New subdivision e would require the task force to issue recommendations to the coordinator of criminal justice or mayor's designee and such individual shall issue a report to the mayor and the council no later than one year after the final task force member is appointed. The report, to the extent practicable, must include the following information regarding the reentry of older adults from state prisons and local jails:

- An analysis of the root causes of incarceration for older adults, and proposals to reduce the rates of incarceration for older adults.
- An analysis of re-entry services for older adults, including but not limited to:
 - the unique health needs of older adults;
 - the costs and benefits of re-entry services for older adults, including benefits associated with reducing recidivism;
 - how the city can work with the state department of corrections and community supervision to seek the proper provision of reentry services;
 - the types of re-entry services available, including but not limited to affordable and/or supportive housing, mental health and substance abuse treatment, and employment assistance; and
 - the gaps in current reentry services.
- Any other recommendations to assist in developing a compassionate post-incarceration older adult reentry policy, including but not limited to potential legislative reforms.

New subdivision f provides that after the initial report is published the task force would continue to meet at least four times a year and make supplemental recommendations, as needed, and the coordinator of criminal justice or mayor's designee would publish supplemental annual reports, as needed, updating the mayor and council on the progress in implementing the recommendations contained in the initial report.

New subdivision g provides that the task force will terminate 4 years after the publication of the initial report.

Section two of Proposed Int. No. 1616-A provides that the local law would take effect immediately.

(The following is the text of the Fiscal Impact Statement for Int. No. 1185-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 1185-A

COMMITTEE: Aging

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to providing certain information to users of life-sustaining equipment and individuals for whom a disruption in electrical service would create a medical emergency

SPONSORS: By Council Members Deutsch, Johnson, Grodenchik, Menchaca, Maisel, Gentile, Chin, Mendez, Salamanca, Torres, Rose and Kallos

SUMMARY OF LEGISLATION: Proposed Intro. No. 1185-A would require the Department for the Aging (DFTA) to regularly provide written materials from the Office of Emergency Management (OEM) to all senior centers and DFTA-sponsored naturally occurring retirement communities (NORCs) on how seniors who are users of life-sustaining equipment or individuals for whom a disruption in electrical service would create a medical emergency may register with utility providers. These materials would also be posted online on the websites of DFTA and the Mayor's Office of People with Disabilities (MOPD).

EFFECTIVE DATE: 30 days after enactment into law

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	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: It is anticipated that there would be no impact on expenditures resulting from the enactment of Proposed Intro. No. 1185-A because DFTA and MOPD can use existing resources to distribute and/or place online the required information about life-sustaining equipment.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Daniel Kroop, Financial Analyst

ESTIMATE REVIEWED BY: Eric Bernstein, Counsel
Dohini Sompura, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the Council on May 25, 2016 as Intro. No. 1185 and was referred to the Committee on Aging (Committee). The Committee considered the legislation at a

hearing on September 20, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1185-A, will be voted on by the Committee at a hearing on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1185-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 12, 2017.

(For text of Int. Nos. 1616-A and its Fiscal Impact Statement, please see the Report of the Committee on Aging for Int. No. 1616-A printed in these Minutes; for text of Int. No. 1185-A, please see below)

Accordingly, this Committee recommends the adoption of Int. Nos. 1616-A and 1185-A.

(The following is the text of Int. No. 1185-A:)

Int. No. 1185-A

By Council Members Deutsch, Johnson, Grodenchik, Menchaca, Maisel, Gentile, Chin, Mendez, Salamanca, Torres, Rose and Kallos.

A Local Law to amend the administrative code of the city of New York, in relation to providing certain information to users of life-sustaining equipment and individuals for whom a disruption in electrical service would create a medical emergency

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-207, to read as follows:

§21-207 Users of life-sustaining equipment and individuals for whom a disruption in electrical service would create a medical emergency. The department shall regularly provide written materials from the office of emergency management to all senior centers in the city and all naturally occurring retirement communities sponsored by the department on how to register with any utility providing electrical service within the city as a user of life-sustaining equipment or an individual for whom a disruption in electrical service would create a medical emergency. These materials shall also be posted electronically in a conspicuous location on the department's website and on the website of the mayor's office for people with disabilities.

§ 2. This local law takes effect 30 days after it becomes law.

MARGARET S. CHIN, *Chairperson*; DEBORAH L. ROSE, CHAIM M. DEUTSCH, MARK TREYGER, PAUL A. VALLONE; Committee on Aging, December 18, 2017.

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. 1616-A

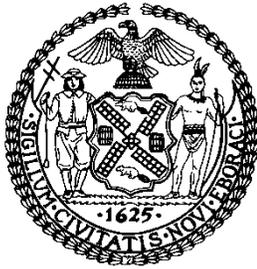
Report of the Committee on Aging in favor of approving and adopting, a Local Law in relation to establishing a temporary task force on post-incarceration reentry for older adults.

The Committee on Aging, to which the annexed proposed amended local law was referred on March 24, 2017 (Minutes, page 1613), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Aging for Int. No. 1185-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1616-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 1616-A

COMMITTEE: Aging

TITLE: A Local Law in relation to establishing a temporary task force on post-incarceration reentry for older adults

SPONSORS: By Council Members Dromm, Constantinides, Gentile, Crowley, Menchaca, Rodriguez, Barron, Lander, Johnson, Cornegy, Levin, Chin, Vallone, Rose, Williams, Koslowitz, Mendez, Torres, and the Public Advocate (Ms. James)

SUMMARY OF LEGISLATION: Proposed Intro. No. 1616-A would require the Coordinator of the Mayor's Office of Criminal Justice (MOCJ), or another person designated by the Mayor, to establish a temporary task force to address issues related to the post-incarceration reentry of older adults. The task force would meet quarterly and consist of eight members appointed by the Mayor, four appointed by the Council Speaker, as well as a representative designated by the state. At least three mayoral appointments would be formerly incarcerated individuals.

The task force would issue a report no later than one year after the final task force member is appointed, which would include an analysis of the causes of incarceration of older adults, review re-entry services, and provide any other recommendations for developing compassionate post-incarceration older-adult re-entry policy. Following publication of the initial report, the task force would continue to meet at least quarterly and make supplemental recommendations to MOCJ. In addition, MOCJ would publish supplemental annual reports, as needed, updating the Mayor and Council on any progress in the implementation of the recommendations contained in the initial report. The task force would cease to exist four years after the publication of its initial report.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2018

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY18
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: Proposed Intro. No. 1616-A would have no impact on revenues.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of Proposed Intro. No. 1616-A because existing resources can be used to establish the task force and develop required reports.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Daniel Kroop, Financial Analyst

ESTIMATE REVIEWED BY: Eric Bernstein, Counsel
Dohini Sompura, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the Council on May 24, 2017 as Intro. No. 1616 and was referred to the Committee on Aging (Committee). The Committee considered the legislation at a hearing on September 20, 2017 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1616-A, will be voted on by the Committee at a hearing on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1616-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 12, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1616-A:)

Int. No. 1616-A

By Council Members Dromm, Constantinides, Gentile, Crowley, Menchaca, Rodriguez, Barron, Lander, Johnson, Cornegy, Levine, Chin, Vallone, Rose, Williams, Koslowitz, Mendez, Torres, Kallos and the Public Advocate (Ms. James).

A Local Law in relation to establishing a temporary task force on post-incarceration reentry for older adults

Be it enacted by the Council as follows:

Section 1. Temporary task force on post-incarceration reentry for older adults.

a. The coordinator of criminal justice as defined in section 13 of the charter or such other person as the mayor may designate shall establish and implement a temporary task force to address issues related to the post-incarceration reentry of older adults.

b. The task force shall consist of 12 members as follows:

1. Eight members shall be appointed by the mayor, chosen from individuals representing relevant city agencies, provider organizations and advocacy groups, and individuals representing impacted communities, provided that at least 3 members shall be formerly incarcerated individuals; and

2. Four members shall be appointed by the speaker of the council, chosen from individuals representing provider organizations and advocacy groups, individuals representing impacted communities, and academics with expertise in post-incarceration reentry for older adults.

3. In addition to these 12 members, the coordinator of criminal justice as defined in section 13 of the charter or such other person as may be designated by the mayor shall invite the state to designate a representative to be a member of the task force.

c. Membership on the task force shall not constitute the holding of a public office, and members of the task force shall not be required to take or file oaths of office before serving on the task force. All members of the task force shall serve without compensation.

d. The task force shall meet at least 4 times per year.

e. The task force shall issue recommendations to the coordinator of criminal justice as defined in section 13 of the charter or such other person as the mayor may designate and the coordinator or such other person shall issue an initial report to the mayor and council no later than 12 months after the final member of the task force is appointed. Such report shall, to the extent practicable, include but not be limited to the following information regarding the reentry of older adults from state prisons and local jails:

1. An analysis of the root causes of incarceration for older adults, and proposals to reduce the rates of incarceration for older adults.

2. An analysis of re-entry services for older adults, including but not limited to: (i) the unique health needs of older adults, (ii) the costs and benefits of re-entry services for older adults, including benefits associated with reducing recidivism, (iii) how the city can work with the state department of corrections and community supervision to seek the proper provision of reentry services, (iv) the types of re-entry services available, including but not limited to affordable and/or supportive housing, mental health and substance abuse treatment, and employment assistance, and (v) the gaps in current reentry services.

3. Any other recommendations to assist in developing a compassionate post-incarceration older adult reentry policy, including but not limited to potential legislative reforms.

f. Following the publication of the initial report, the task force shall continue to meet at least 4 times a year and shall make supplemental recommendations, as needed, to the coordinator of criminal justice as defined in section 13 of the charter or such other person as the mayor may designate. Such coordinator or other person shall publish supplemental annual reports, as needed, updating the mayor and council on any progress in the implementation of the recommendations contained in the initial report.

g. The task force shall cease to exist 4 years after the publication of its initial report.

§2. This local law takes effect immediately.

MARGARET S. CHIN, *Chairperson*; DEBORAH L. ROSE, CHAIM M. DEUTSCH, MARK TREYGER, PAUL A. VALLONE; Committee on Aging, December 18, 2017.

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 Civil Rights

Report for Int. No. 804-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, to require covered entities to engage in a cooperative dialogue with persons who are or may be entitled to reasonable accommodations.

The Committee on Civil Rights, to which the annexed proposed amended local law was referred on June 10, 2015 (Minutes, page 2176), respectfully

REPORTS:

I. INTRODUCTION

Today, the Committee on Civil Rights, chaired by Council Member Darlene Mealy, will hold a hearing on Proposed Introduction No. 804-A (“Int. 804-A,”) a Local Law to amend the administrative code of the city of New York, to require covered entities to engage in a cooperative dialogue with persons who are or may be entitled to reasonable accommodations. Int. 804-A was originally heard at a hearing of this committee on September 21, 2015, at which the Committee received testimony from representatives of the New York City Commission on Human Rights, civil and human rights organizations, and other interested parties.

II. BACKGROUND

The New York City Human Rights Law (“HRL”), embodied in the New York City Charter and title eight of the New York City Administrative Code, is one of the most expansive and comprehensive human rights laws in the nation. The HRL protects a number of classes of persons from discrimination in the areas of employment, housing, public accommodations, and more.¹ Protected classes covered under the HRL include race, national origin, disability, sexual orientation, alienage or citizenship status, gender, partnership status, age, and others.²

The HRL currently requires the entities that it covers to make reasonable accommodations for victims of domestic violence, individuals with pregnancy and related conditions, religious needs, and disabilities, so long as these accommodations would not impose an “undue hardship” on the covered entity. Before *Jacobsen v. New York City Health & Hospitals Corp.*, 22 N.Y.3d 824, 838 (2014), courts had held that the first step in providing a reasonable accommodation under the City’s HRL is to “engage in a good faith interactive process that assesses the needs of the disabled individual and the reasonableness of the accommodation requested.”³ The Court of Appeals, in *Jacobsen*, held that the refusal to engage in a good faith interactive process is not independently actionable under the HRL, but “is but one factor to be considered in deciding whether a reasonable accommodation was available.”⁴

Proposed Int. No. 804-A would explicitly require entities that must provide reasonable accommodation under the City’s HRL, to have a cooperative dialog with individuals who need or may need reasonable accommodations.

¹ N.Y.C. Admin Code §8-101 *et seq*

² *Id.*

³ *Phillips v. City of New York*, 66 A.D.3d 170, 176, 884 N.Y.S.2d 369, 373 (2009).

⁴ *Jacobsen v. New York City Health & Hosps. Corp.*, 22 N.Y.3d 824, 838, 11 N.E.3d 159, 169 (2014).

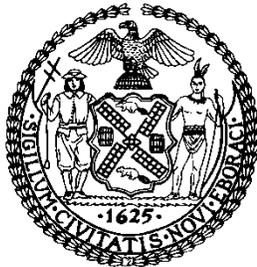
III. ANALYSIS OF LEGISLATION

This bill would clarify the reasonable accommodation requirement by expressly requiring, as a part of the reasonable accommodation process, that covered entities engage in a cooperative dialog with individuals who they know or should know may require accommodation.

A cooperative dialog is the process by which a covered entity and a person who may be entitled to an accommodation engage, in good faith, in a written or oral dialogue concerning the person's accommodation needs, potential accommodations that may address those needs, and the difficulties that such accommodations may pose for the covered entity. The requirement for a cooperative dialog would apply to covered entities in the context of employment, public accommodations, and housing. Upon reaching a final determination at the conclusion of a cooperative dialog, covered entities in the context of employment and housing accommodations would be obligated to provide any person requesting an accommodation, who participated in the cooperative dialogue, with a written final determination identifying any accommodation granted or denied.

This bill would legislatively modify the holding of *Jacobsen v. New York City Health & Hospitals Corp.*, 22 N.Y.3d 824, 838 (2014), which held that refusal to engage in a good faith interactive process is not independently actionable under the HRL. The proposed bill would not otherwise modify the standard for determining what is a reasonable accommodation or undue hardship. It also would not foreclose any other claim for failure to reasonably accommodate.

(The following is the text of the Fiscal Impact Statement for Int. No. 804-A:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 804-A

COMMITTEE: Civil Rights

TITLE: A Local Law to amend the administrative code of the city of New York, to require covered entities to engage in a cooperative dialogue with persons who are or may be entitled to reasonable accommodations

SPONSORS: By Council Members Barron, Eugene, Mendez, Richards and Rosenthal

SUMMARY OF LEGISLATION: Proposed Intro. No. 804-A would amend the New York City Human Rights Law (HRL) to clarify the HRL's reasonable accommodation requirement by expressly requiring covered entities to engage in or seek to engage in a cooperative dialogue within a reasonable period of time with individuals who may be entitled to an accommodation, in order to identify what reasonable accommodation are available to assist them. Proposed Intro. No. 804-A would apply to employers, providers of public accommodations, and providers of housing accommodations.

EFFECTIVE DATE: This local law takes effect on the same date as section 3 of a local law amending the New York city charter and the administrative code of the city of New York, as proposed in introduction number 1012-A for the year 2015, takes effect.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is estimated that Proposed Intro. No. 804-A would have no impact on revenues.

IMPACT ON EXPENDITURES: It is estimated that Proposed Intro. No. 804-A would have no impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division
New York City Commission on Human Rights

ESTIMATE PREPARED BY: Sheila D. Johnson, Financial Analyst

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director
Eric Bernstein, Counsel
Eisha Wright, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced as Intro. No. 804 by the Council on September 21, 2015 and was referred to the Committee on Civil Rights (Committee). The Committee considered the legislation at a hearing on September 21, 2015, and the legislation was laid over. The legislation was subsequently amended and the amended version of the legislation, Proposed Intro. No. 804-A, will be voted on by the Committee on December 18, 2017. Upon successful vote of the Committee, Proposed Intro. No. 804-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 804-A:)

Int. No. 804-A

By Council Members Barron, Eugene, Mendez, Richards, Rosenthal, Kallos and Menchaca.

A Local Law to amend the administrative code of the city of New York, to require covered entities to engage in a cooperative dialogue with persons who are or may be entitled to reasonable accommodations

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 in alphabetical order to read as follows:

Cooperative dialogue. The term "cooperative dialogue" means the process by which a covered entity and a person entitled to an accommodation, or who may be entitled to an accommodation under the law, engage in good faith in a written or oral dialogue concerning the person's accommodation needs; potential accommodations that

may address the person's accommodation needs, including alternatives to a requested accommodation; and the difficulties that such potential accommodations may pose for the covered entity.

§ 2. Section 8-107 of the administrative code of the city of New York is hereby amended by adding a new subdivision 28 to read as follows:

28. *Reasonable accommodation; cooperative dialogue.*

(a) *Employment. It shall be an unlawful discriminatory practice for an employer, labor organization or employment agency or an employee or agent thereof to refuse or otherwise fail to engage in a cooperative dialogue within a reasonable time with a person who has requested an accommodation or who the covered entity has notice may require such an accommodation:*

(1) *For religious needs as provided in subdivision 3 of this section;*

(2) *Related to a disability as provided in subdivision 15 of this section;*

(3) *Related to pregnancy, childbirth or a related medical condition as provided in subdivision 22 of this section; or*

(4) *For such person's needs as a victim of domestic violence, sex offenses or stalking as provided in subdivision 27 of this section.*

(b) *Public accommodations. It shall be an unlawful discriminatory practice for any person who is the owner, franchisor, franchisee, lessor, lessee, proprietor, manager, superintendent, agent or employee of any place or provider of public accommodation to refuse or otherwise fail to engage in a cooperative dialogue within a reasonable time with a person who has requested an accommodation or who the covered entity has notice may require an accommodation related to disability as provided in subdivision 15 of this section.*

(c) *Housing accommodation. It shall be an unlawful discriminatory practice for an owner, lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell,*

rent or lease or approve the sale, rental or lease of a housing accommodation, constructed or to be constructed, or an interest therein, or any agency or employee thereof to refuse or otherwise fail to engage in a cooperative dialogue within a reasonable time with a person who has requested an accommodation or who the covered entity has notice may require an accommodation related to disability as provided in subdivision 15 of this section.

(d) *Upon reaching a final determination at the conclusion of a cooperative dialogue pursuant to paragraphs (a) and (c) of this subdivision, the covered entity shall provide any person requesting an accommodation who participated in the cooperative dialogue with a written final determination identifying any accommodation granted or denied.*

(e) *The determination that no reasonable accommodation would enable the person requesting an accommodation to satisfy the essential requisites of a job or enjoy the right or rights in question may only be made after the parties have engaged, or the covered entity has attempted to engage, in a cooperative dialogue.*

(f) *Rights and obligations set forth in this subdivision are supplemental to and independent of the rights and obligations provided by subdivisions 3, 15, 22 and 27. A covered entity's compliance with this subdivision is not a defense to a claim of not providing a reasonable accommodation under provisions of title 8 other than this subdivision.*

§ 3. This local law takes effect on the same date as section 3 of a local law amending the New York city charter and the administrative code of the city of New York, in relation to making improvements to clarify and strengthen the human rights law, and to repeal and replace section 8-102 of the administrative code of the city of New York, relating to definitions of terms in the human rights law, and to repeal sections 8-103, 8-104, 8-105 and 8-106 of the administrative code of the city of New York, relating to the functions, powers and duties of the commission on human rights and its relations with city departments and agencies, as proposed in introduction number 1012-A for the year 2015, takes effect.

DANIEL DROMM, *Acting Chairperson*; MATHIEU EUGENE, ANDY L. KING, RAFAEL SALAMANCA, Jr.: Committee on Civil Rights, December 18, 2017.

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. 1012-A

Report of the Committee on Civil Rights in favor of approving and adopting, as amended, a Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to making improvements to clarify and strengthen the human rights law, and to repeal and replace section 8-102 of the administrative code of the city of New York, relating to definitions of terms in the human rights law, and to repeal sections 8-103, 8-104, 8-105 and 8-106 of the administrative code of the city of New York, relating to the functions, powers and duties of the commission on human rights and its relations with city departments and agencies.

The Committee on Civil Rights, to which the annexed proposed amended local law was referred on December 7, 2015 (Minutes, page 4214), respectfully

REPORTS:**I. INTRODUCTION**

On Monday, December 18, 2017, the Committee on Civil Rights (“the Committee”), chaired by Council Member Darlene Mealy, will hold a vote on Proposed Introductory Bill 1012-A (“Proposed Int. No. 1012-A”), intended to amend the New York City Human Rights Law (“HRL”).

II. BACKGROUND

The HRL, embodied in the New York City Charter and Title 8 of the New York City Administrative Code, is one of the most expansive and comprehensive human rights laws in the nation. The HRL was first adopted by local law in 1955, which created a Commission on Intergroup Relations, which would later become the Commission on Human Rights. The Council made significant amendments to the HRL in 1991 and 2005. The 1991 amendments made comprehensive changes to the law, expanding its scope and improving the tools for enforcement by, for example, providing a private right of action. The 2005 amendments reaffirmed the Council’s intent that the HRL be construed liberally as remedial legislation and that it be interpreted independently of similar federal and state laws. Since then, the Council has expanded the substantive protections of the HRL in a number of ways.

While the HRL is comprehensive, the City can strengthen it further. The HRL is an extremely important law for all New Yorkers, as it is a statement of the City’s commitment to equality and fairness at work, in housing, at places of public accommodations, and more. However, due to the amendment of the HRL over a significant period of time, certain provisions of the HRL are duplicative or difficult to navigate and have coverage idiosyncrasies. These problems hamper the HRL’s goals of justice and equality, as they affect the ability of individuals to understand the rights and responsibilities provided under the HRL.

Accordingly, the goal of Proposed Int. No. 1012-A is to clarify existing protections and improve the HRL’s organizational structure. This bill would be a meaningful first step toward helping the public understand and apply the HRL’s core protections. The changes that the proposed bill would implement would also help reaffirm the HRL’s status as one of the most comprehensive civil rights laws in the nation.

III. SUMMARY OF PROPOSED INT. NO. 1012-A

Proposed Int. No. 1012-A would amend the HRL to clarify its structure, language, protections and obligations. The bill would make amendments that are primarily technical, and a few amendments would simply clarify the scope of certain substantive provisions. The movement of or technical changes to HRL provisions would not augment or diminish any right or authority possessed by a person or agency immediately before the effective date of the HRL. The contemplated stylistic changes are primarily intended to modernize language in the Charter and Administrative Code, as part of an overall effort by the Council to modernize language in its legislation this Council session. The bill would take effect 270 days after it becomes law,

except that section one of the bill pertaining to the Human Rights Commission's annual report due date would take effect immediately.

The changes that Proposed Int. No. 1012-A would make follow in more detail:

A. Structural Amendments

Proposed Int. No. 1012-A would make a number of structural amendments to the HRL:

- **Consolidation in Charter.** Proposed Int. No. 1012-A would consolidate several provisions of the HRL that are duplicated in both the Charter and the Administrative Code, making Charter sections 903 through 906 the primary location for such provisions and repealing the duplicative sections 8-103 through 8-106 of the Administrative Code. This consolidation would ensure that the Charter and Administrative Code provisions do not diverge over time.
 - Section 8-103 of the Administrative Code pertaining to the creation of the Commission on Human Rights would be repealed, as it is duplicative of § 903 of the Charter.
 - Section 8-104 of the Administrative Code pertaining to the functions of the Commission would be repealed, as it is duplicative of § 904 of the Charter.
 - Section 8-105 of the Administrative Code pertaining to the powers and duties of the Commission would be repealed, as it is duplicative of § 905 of the Charter. Section 8-105(10) of the Administrative Code, which establishes the due date of and specific information required in the Commission's annual report, would be incorporated into § 905 of the Charter (see below in Section C of this committee report).
 - Section 8-106 of the Administrative Code pertaining to the Commission's relations with City departments and agencies would be repealed, as it is duplicative of § 906 of the Charter.
- **Definitions.** Proposed Int. No. 1012-A would move definitions in Chapter 1 of Title 8 that appear outside of the Chapter's general definitions section (§ 8-102) into such section. Definitions in the current § 8-102 of terms that would appear only in the Charter after the consolidation would be moved to appropriate provisions in the Charter.
 - The definitions of the terms "intelligence information," "national security information" and "trade secrets" would be moved out of §8-107(24) of the Administrative Code and into § 8-102.
 - The definitions of the terms "acts or threats of violence," "victim of domestic violence" and "victim of sex offenses or stalking" would be moved out of § 8-107.1(a) of the Administrative Code and into § 8-102.
 - The definition of the term "cyberbullying" would be moved out of § 8-102 of the Administrative Code and into § 905(a) of the Charter.
 - The definition of the term "hate crime" would be moved out of § 8-102 of the Administrative Code and into § 905(b) of the Charter.
- **Movement of chapters out of the HRL.** Proposed Int. No. 1012-A would move Chapters 8 through 11 from the existing HRL to chapters in other titles of the Administrative Code where they are better suited as a matter of substance and enforcement.
 - Existing Chapter 8 of Title 8 ("Prevention of Interference with Reproductive Health Services") → to Title 10 (Public Safety) as a new Chapter 10.
 - Existing Chapter 9 of Title 8 ("Actions by Victims of Gender-Motivated Violence") → to Title 10 (Public Safety) as a new Chapter 11.
 - Existing Chapter 10 of Title 8 ("Equal Access to Human Services") → to Title 21 (Social Services) as a new Subchapter 1 of Chapter 1.
 - Existing Chapter 11 of Title 8 ("Reports on Discipline and Certain Emergency Transports of Students") → to Title 21-A (Education) as a new Chapter 19.

- Proposed Int. No. 1012-A would update cross references in Title 8 and in other titles of the Administrative Code to reflect the structural amendments to Title 8.

B. Style-Related Amendments

The stylistic amendments¹ that Proposed Int. No. 1012-A would implement include:

- **Restyling definitions.** Proposed Int. No. 1012-A would repeal § 8-102 of the Administrative Code, the general definitions section, and replace it with recodified text to implement a uniform style for definitions. Each definition would be broken out into a separate undesignated paragraph and placed in alphabetical order. Unit designators would be deleted (e.g., a., 1., etc.). Each definition would begin instead with the word being defined, followed by a period. Readers would be able to scan a list of definitions quickly. Then, a full-sentence definition would follow, with the term being defined in quotation marks. For example, the definition of “definition” would read as follows: Definition. The term “definition” means a formal statement of the meaning of a word or phrase. Future citations to an HRL definition could refer to § 8-102.
- **Grammar, usage, and related cleanup.** Proposed Int. No. 1012-A would implement longstanding New York state and city rules on a few grammar, usage, and related issues and make other technical amendments. Proposed Int. No. 1012-A would, for example:
 - Modernize the use of numbers; in many situations, that means using numerals (40) instead of spelling out numbers (forty).
 - Modernize capitalization, which typically mean lowercasing terms (such as “the first amendment”).
 - Replace gendered pronouns (he/she, his/her) with nouns where feasible.
 - Replace instances of “and/or” with the formulation “A, B, or both.”
 - Correct “forego” to “forgo” in § 8-107(3)(a) (“... or [forego] forgo a practice of . . .”).
 - Amend § 8-107(9)(b)(1) to remove a redundant phrase (“for licensing or permitting purposes”).

Proposed Int. No. 1012-A would not standardize the use or non-use of the serial comma; rather, it would generally leave commas in series as they exist in the original text so as not to affect any existing case law interpretation, except in a few instances where the local laws implementing the new language were passed recently and so case law likely had not begun developing.

C. Revisions Clarifying Substantive Provisions

As described above, Proposed Int. No. 1012-A would primarily make technical revisions to the HRL to make the HRL more user-friendly. However, Proposed Int. No. 1012-A would also clarify the scope of certain substantive provisions. Such amendments generally would seek to make legislative intent clearer. This summary does not constitute legal advice and should not be interpreted as such.

Clarification of Commission powers and duties.

- Proposed Int. No. 1012-A would amend the Charter to clarify the scope of the powers of the Commission on Human Rights when enforcing the provisions of the HRL as provided in the Charter and Title 8 of the Administrative Code. None of the changes that this bill would make to the Charter language around Commission powers or other matters are intended to have a substantive effect.
- Administrative Code § 8-120(a) describes, *inter alia*, relief that the Commission on Human Rights may grant if it finds that an entity has committed an unlawful discriminatory practice prohibited by chapter 1 of Title 8, or an act of discriminatory harassment or violence covered by chapter 6 of Title 8. The Commission is directed to order the violating party to take any affirmative action that the Commission decides “will effectuate the purposes of this chapter,” that is, chapter 1. The proposed bill

¹ Note: Other edits not flagged here would serve a similar purpose of modernizing the language in Title 8.

would make clear that when the Commission orders relief for violations of chapter 6 it similarly can order whatever relief it believes will effectuate the purposes of chapter 6 as well.

- Charter § 905 requires the Commission to submit an annual report to the Mayor and Speaker of the Council. Administrative Code § 8-105(10), which would be repealed by this bill, specifies an annual due date of March 1 for such report. Proposed Int. No. 1012-A would amend the due date of the report to be September 30 of each year. Otherwise, the Commission needs to complete its Mayor's Management Report and the annual report required under § 905 at different times each year.

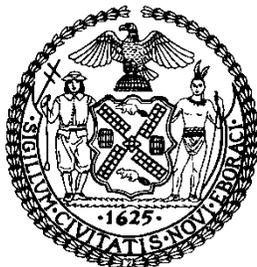
Victims of domestic violence, sex offenses and stalking. Victims of domestic violence, sex offenses and stalking, the subject of § 8-107.1, are not expressly cited in certain provisions of the HRL that were intended to cover such victims. These discrepancies might have arisen because drafters typically refer to § 8-107, which contains most of the HRL's substantive protections, and not to the later-added § 8-107.1. Proposed Int. No. 1012-A would address these discrepancies and make its original legislative intent clear by re-designating § 8-107.1 as a new subdivision 27 of § 8-107. The bill would also fold in protections for victims of domestic violence, sex offenses, and stalking in § 8-107(2). These changes would clarify that victims of domestic violence, sex offenses and stalking are protected to the same extent as other protected categories in the HRL.

Discrimination on basis of gender. Proposed Int. No. 1012-A would amend § 8-107(22)(c) by replacing a reference to "sex discrimination" with a reference to "discrimination on the basis of gender" to make the terminology consistent with the rest of the HRL (which generally stopped using the term "sex" in 1991) and to make clear that laws relating to, for example, gender identity are also covered by this provision.

IV. AMENDMENTS TO PROPOSED INT. NO. 1012-A

Since the original version of Int. No. 1012 was heard on December 9, 2015, the bill has undergone several revisions. The previous version of the bill would have repealed Title 8 of the Administrative Code and would have replaced it with a new Title 8 to reorganize the entire HRL. Specifically, the earlier bill would have reorganized the HRL into four main chapters, created applicability sections at the beginning of articles, centralized legislative declarations of policy in a single subchapter, used a five-digit numbering system, and more aggressively modernized grammar, usage and style in the HRL. Proposed Int. No. 1012-A repeals only a few sections in Title 8 and makes less extensive structural and grammar, usage and style amendments to the HRL. The earlier version of the bill also made additional substantive amendments to the HRL, including changes related to disparate impact, knowledge of disability and pregnancy, and arrest and criminal conviction discrimination. These changes are not included in Proposed Int. No. 1012-A. Proposed Int. No. 1012-A includes only those amendments clarifying certain substantive provisions, as discussed above.

(The following is the text of the Fiscal Impact Statement for Int. No. 1012-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO.1012-A

COMMITTEE: Civil Rights

TITLE: A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to making improvements to clarify and strengthen the human rights law, and to repeal and replace section 8-102 of the administrative code of the city of New York, relating to definitions of terms in the human rights law, and to repeal sections 8-103, 8-104, 8-105 and 8-106 of the administrative code of the city of New York, relating to the functions, powers and duties of the commission on human rights and its relations with city departments and agencies

SPONSORS: The Speaker (Council Member Mark-Viverito) and Council Members Chin, Johnson, Koo, Koslowitz, Lander, Richards, Rose, Rosenthal and Rodriguez.

SUMMARY OF LEGISLATION: Proposed Intro. No. 1012-A would make technical amendments to the New York City Human Rights Law (HRL) to restructure and modernize the language in the HRL, and clarify the scope of the law's protections for victims of domestic violence, sex offenses and stalking. Proposed Intro. No. 1012-A would move certain definitions into and out of section 8-102 of the Code and would apply a uniform style to the definitions section. The bill would also amend the Charter provisions setting forth the Human Rights Commission's powers by consolidating duplicative provisions and repealing them from the Code, clarifying existing enforcement authority and amending the annual report due date. Additionally, Proposed Int. No. 1012-A would move Chapters 8 through 11 of Title 8 of the Code to more subject-matter appropriate titles and update cross-references in other provisions of the Code to reflect the structural amendments to Title 8.

EFFECTIVE DATE: This local law takes effect 270 days after becoming law, except that section one of this local law takes effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is estimated that Proposed Int. No. 1012-A would have no impact on revenues.

IMPACT ON EXPENDITURES: It is estimated that Proposed Int. No. 1012-A would have no impact on expenditures.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division
New York City Commission on Human Rights

ESTIMATE PREPARED BY: Sheila D. Johnson, Financial Analyst

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director
Eric Bernstein, Counsel
Eisha Wright, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced as Intro. No. 1012 by the Council on December 7, 2015 and was referred to the Committee on Civil Rights (Committee). The Committee considered the

legislation at a hearing on December 9, 2015, and the legislation was laid over. The legislation was subsequently amended and the amended version of the legislation, Proposed Intro. No. 1012-A, will be voted on by the Committee on December 18, 2017. Upon successful vote of the Committee, Proposed Intro. No. 1012-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1012-A:)

Int. No. 1012-A

By The Speaker (Council Member Mark-Viverito) and Council Members Chin, Johnson, Koo, Koslowitz, Lander, Richards, Rose, Rosenthal, Rodriguez, Kallos and Menchaca.

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to making improvements to clarify and strengthen the human rights law, and to repeal and replace section 8-102 of the administrative code of the city of New York, relating to definitions of terms in the human rights law, and to repeal sections 8-103, 8-104, 8-105 and 8-106 of the administrative code of the city of New York, relating to the functions, powers and duties of the commission on human rights and its relations with city departments and agencies

Be it enacted by the Council as follows:

Section 1. Paragraph 8 of subdivision e of section 905 of the New York city charter, as added by a vote of the electors on November 6, 2001, is amended to read as follows:

8. [to] *Annual reporting.* To submit [an annual] a report by *September 30, 2018 and September 30 of each year thereafter* to the mayor and the *speaker of the council* [which shall be published in City Record; and]. *Such report shall be published in the City Record and shall include information for the previous fiscal year regarding: (i) inquiries received by the commission from the public; (ii) investigations initiated by the commission; (iii) complaints filed with the commission; and (iv) education and outreach efforts made by the commission.*

§ 2. Sections 900, 901, 902, 903, 904, 905 and 906 of the New York city charter, as added by a vote of the electors on November 6, 2001 and paragraph 8 of subdivision e of section 905 as amended by section one of this local law, are amended to read as follows:

§ 900. Declaration of intent. It is [hereby declared as] the public policy of the city [of New York] to promote equal opportunity and freedom from unlawful discrimination through the provisions of the city's human rights law[, chapter 1 of title 8 of the administrative code of the city of New York].

§ 901. *Executive orders.* The mayor may issue such executive orders as [he or she] *the mayor* deems appropriate to provide for city agencies and contractors to act in accordance with the policy set forth in this chapter.

§ 902. *Commission on human rights.* a. The New York city commission on human rights is hereby established and continued.

b. The commission [shall have the] *has general jurisdiction and* power to eliminate and prevent unlawful discrimination by enforcing the provisions of [the New York city human rights law, and shall have general jurisdiction and power for such purposes] *chapter 1 of title 8 of the administrative code and also has the powers conferred upon such commission by such title and all other applicable laws in furtherance of the elimination and prevention of such unlawful discrimination.* [It] *The commission* may, in addition, take such other actions as may be provided by law against prejudice, intolerance, bigotry and unlawful discrimination *and has the powers and duties conferred by this chapter and any other law in furtherance of such purposes. Nothing in this chapter shall be construed to limit the powers of the corporation counsel pursuant to applicable law.*

§ 903. *Commission membership; chairperson; appointment; vacancy.* The commission shall consist of [fifteen] 15 members, to be appointed by the mayor, one of whom shall be designated by the mayor as its chairperson and shall serve as such at the pleasure of the mayor. The chairperson shall devote [his or her] *the chairperson's* entire time to the chairperson's duties and shall not engage in any other occupation, profession or employment. Members other than the chairperson shall serve without compensation for a term of three years. In the event of the death or resignation of any member, [his or her] *such member's* successor shall be appointed to serve for the *unexpired portion of the* term for which such member had been appointed.

§ 904. Functions. The functions of the commission [shall be] *are*:

- a. [to] *To* foster mutual understanding and respect among all persons in the city [of New York];
- b. [to] *To* encourage equality of treatment for, and prevent discrimination against, any group or its members;
- c. [to] *To* cooperate with governmental and non-governmental agencies and organizations having like or kindred functions; and
- d. [to] *To* make such investigations and studies in the field of human relations as in the judgment of the commission will aid in effectuating its general purposes.

§ 905. Powers and duties. The powers and duties of the commission shall be *exercised in a manner consistent with this chapter, title 8 of the administrative code and all other applicable laws and include but are not limited to the following*:

a. [to] *Public education and other activities.* To work together with federal, state and city agencies in developing courses of instruction, for presentation to city employees and in public and private schools, public libraries, museums and other suitable places, on techniques for achieving harmonious [inter-group] *intergroup* relations within the city [of New York,] *and on types of bias-related harassment and repeated hostile behavior including conduct or verbal threats, taunting, intimidation, abuse, and cyberbullying,* and to engage in other anti-discrimination activities. *For the purposes of this subdivision, the term "cyberbullying" means willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices that is intended to frighten, harass, cause harm to, extort, or otherwise target another;*

b. [to] *Cooperation with groups and organizations.* To enlist the cooperation of various groups and organizations[,] in mediation efforts, programs and campaigns devoted to eliminating group prejudice, intolerance, hate crimes, bigotry and discrimination. *For the purposes of this subdivision, the term "hate crime" means a crime that manifests evidence of prejudice based on race, religion, ethnicity, disability, sexual orientation, national origin, age, gender, or alienage or citizenship status;*

c. [to] *Studies.* To study the problems of prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby in all or any fields of human relationship;

d. [(1) to] *Investigations and complaints; referral.* 1. To receive, investigate and pass upon complaints and to initiate its own investigation of: (i) [group-tensions] *group tensions*, prejudice, intolerance, bigotry and disorder occasioned thereby, and (ii) unlawful discrimination against any person or group of persons, [provided, however,] *except* that with respect to discrimination alleged to be committed by city officials or city agencies, such investigation shall be commenced after consultation with the mayor[.];

2. Upon its own motion, to make, sign and file *administrative* complaints alleging violations of the city's human rights law; *and*

[(2) in] 3. *In the event that any [such] investigation undertaken pursuant to paragraph 1 of this subdivision discloses information that any person or group of persons may be engaged in a pattern or practice that results in the denial to any person or group of persons of the full enjoyment of any right secured by the human rights law, in addition to making, signing and filing [a] an administrative complaint upon its own motion pursuant to paragraph [a] 2 of this subdivision, to refer such information to the corporation counsel for the purpose of commencing a civil action pursuant to chapter [four] 4 of title [eight] 8 of the administrative code;*

e. *Hearings and production of evidence; order to preserve records.* 1. [to] *To* issue subpoenas in the manner provided for in the civil practice law and rules compelling the attendance of witnesses and requiring the production of any evidence relating to any matter under investigation or any question before the commission, and to take proof with respect thereto;

2. [to] *To* hold hearings, administer oaths and take testimony of any person under oath; [and

3. In accordance with applicable law, to] 3. *To* require the production of any names of persons necessary for the investigation of any institution, club or other place or provider of accommodation[.

4. In accordance with applicable law, to]; *and*

4. To require, *in accordance with the provisions of subdivision b of section 8-114 of the administrative code*, any person or persons who are the subject of an investigation by the commission to preserve such records as are in the possession of such person or persons and to continue to make and keep the type of records that have been made and kept by such person or persons in the ordinary course of business within the previous year, which records are relevant to the determination whether such person or persons have committed unlawful discriminatory practices *or other acts made unlawful by chapter 1 or chapter 6 of title 8 of the administrative code* with respect to activities in the city;

[5. to] *f. Publications and reports.* To issue publications and reports of investigation and research designed to promote good will and minimize or eliminate prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby;

[6. to] *g. Appointments and assignments; expenses.* To appoint such employees and agents as it deems to be necessary to carry out its functions, powers and duties[: provided, however,] *and to assign to such persons any of such functions, powers and duties, except* that the commission shall not delegate its power to adopt rules[,] and [provided further,] *also except* that the commission's power to order that records be preserved or made and kept *pursuant to subdivision b of section 8-114 of the administrative code* and the commission's power to determine that a respondent has engaged in an unlawful discriminatory practice and to issue an order for such relief as is necessary and proper shall be delegated only to members of the commission. The expenses for the carrying on of the commission's activities shall be paid out of the funds in the city treasury. The commission's appointment and assignment powers as set forth in this subdivision may be exercised by the chairperson of the commission;

[7. to] *h. Recommendations.* To recommend to the mayor and to the council legislation to aid in carrying out the purposes of this chapter;

[8.] *i. Annual reporting.* To submit a report by September 30, 2018 and September 30 of each year thereafter to the mayor and the speaker of the council. Such report shall be published in the City Record and shall include information for the previous fiscal year regarding: (i) inquiries received by the commission from the public; (ii) investigations initiated by the commission; (iii) complaints filed with the commission; and (iv) education and outreach efforts made by the commission.

1. *The information regarding inquiries received by the commission from the public shall include, but not be limited to: (i) the total number of inquiries; (ii) the number of inquiries made by limited English proficient persons disaggregated by language; (iii) the subject matter of inquiries disaggregated by the alleged category of unlawful discriminatory practice as set forth by section 8-107 of the administrative code and the protected class of person; and (iv) the number of inquiries resolved by pre-complaint intervention.*

2. *The information regarding investigations initiated by the commission shall include, but not be limited to: (i) the total number of investigations initiated by the commission disaggregated by the category of unlawful discriminatory practice as set forth by section 8-107 of the administrative code and the protected class at issue; (ii) the total number of commission-initiated complaints filed pursuant to section 8-109 of the administrative code after an investigation finding that a person or group of persons may be engaged in a pattern or practice of discrimination; (iii) the total number of investigations referred to the corporation counsel for the purpose of commencing a civil action pursuant to chapter 4 of title 8 of the administrative code; and (iv) the total number of publications and reports of investigations designed to promote good will and minimize or eliminate prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby.*

3. *The information regarding complaints filed with the commission shall include, but not be limited to, the number of complaints filed with the commission and shall be disaggregated by: (i) the category of unlawful discriminatory practice, as set forth by section 8-107 of the administrative code, alleged; (ii) the basis of the alleged discriminatory practice based on protected class of the complainant; (iii) whether the complaint was resolved by mediation and conciliation, as set forth in section 8-115 of the administrative code; a determination of no probable cause, as set forth in section 8-116 of the administrative code; or a hearing, as set forth by section 8-119 of the administrative code; (iv) the number of days the complaint was outstanding at the time such resolution occurred; and (v) whether a fine, penalty or cash award was imposed and, if so, the dollar amount of such fine, penalty or cash award.*

4. *The information regarding the commission's education and outreach efforts as required by subdivisions a and b of this section shall include, but not be limited to: (i) the types of outreach initiated; (ii) the number of*

people with whom the commission made contact as a result of outreach; (iii) the number of limited English proficient persons served; and (iv) the languages in which such outreach was conducted; and

[9. to] j. *Rules.* To adopt rules to carry out the [provisions of] powers and duties delegated to the commission by this chapter, title 8 of the administrative code or any other law, and the policies and procedures of the commission in connection therewith.

§ 906. Relations with city departments and agencies. So far as practicable and subject to the approval of the mayor, the services of all other city departments and agencies shall be made available by their respective [head] heads to the commission for the carrying out of the functions [herein] stated in this chapter. The head of any department or agency shall furnish information in the possession of such department or agency when the commission so requests. The corporation counsel, upon request of the chairperson, may assign counsel to assist the commission in the conduct of its investigative or prosecutorial functions.

§ 3. Section 8-102 of the administrative code of the city of New York is REPEALED and a new section 8-102 is added to read as follows:

§ 8-102 *Definitions.* Except as otherwise expressly provided, when used in this chapter, the following terms have the following meanings:

Acts or threats of violence. The term “acts or threats of violence” includes, but is not limited to, acts, which would constitute violations of the penal law.

Alienage or citizenship status. The term “alienage or citizenship status” means:

1. The citizenship of any person, or
2. The immigration status of any person who is not a citizen or national of the United States.

Caregiver. The term “caregiver” means a person who provides direct and ongoing care for a minor child or a care recipient. As used in this definition:

1. *Care recipient.* The term “care recipient” means a person with a disability who: (i) is a covered relative, or a person who resides in the caregiver’s household and (ii) relies on the caregiver for medical care or to meet the needs of daily living.

2. *Covered relative.* The term “covered relative” means a caregiver’s child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of the caregiver’s spouse or domestic partner, or any other individual in a familial relationship with the caregiver as designated by the rules of the commission.

3. *Grandchild.* The term “grandchild” means a child of a caregiver’s child.

4. *Grandparent.* The term “grandparent” means a parent of a caregiver’s parent.

5. *Parent.* The term “parent” means a biological, foster, step- or adoptive parent, or a legal guardian of a caregiver, or a person who stood in loco parentis when the caregiver was a minor child.

6. *Sibling.* The term “sibling” means a caregiver’s brother or sister, including half-siblings, step-siblings and siblings related through adoption.

7. *Spouse.* The term “spouse” means a person to whom a caregiver is legally married under the laws of the state of New York.

8. *Child.* The term “child” means a biological, adopted or foster child, a legal ward or a child of a caregiver standing in loco parentis.

9. *Minor child.* The term “minor child” means a child under the age of 18.

Commercial space. The term “commercial space” means any space in a building, structure or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property; and any space which is used or occupied, or is intended, arranged or designed to be used or occupied as a business or professional unit or office in any building, structure or portion thereof.

Commission. The term “commission,” unless a different meaning clearly appears from the text, means the city commission on human rights.

Consumer credit history. The term “consumer credit history” means an individual’s credit worthiness, credit standing, credit capacity, or payment history, as indicated by: (i) a consumer credit report; (ii) credit score; or (iii) 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.

Covered entity. The term "covered entity" means a person required to comply with any provision of section 8-107.

Disability. The term "disability" means any physical, medical, mental or psychological impairment, or a history or record of such impairment. As used in this definition:

1. *Physical, medical, mental, or psychological impairment.* The term "physical, medical, mental, or psychological impairment" means:

(a) An impairment of any system of the body; including, but not limited to, the neurological system; the musculoskeletal system; the special sense organs and respiratory organs, including, but not limited to, speech organs; the cardiovascular system; the reproductive system; the digestive and genito-urinary systems; the hemic and lymphatic systems; the immunological systems; the skin; and the endocrine system; or

(b) A mental or psychological impairment.

2. In the case of alcoholism, drug addiction or other substance abuse, the term "disability" only applies to a person who (i) is recovering or has recovered and (ii) currently is free of such abuse, and does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

Domestic partner. The term "domestic partner" means any person who has a registered domestic partnership pursuant to section 3-240, a domestic partnership registered in accordance with executive order number 123, dated August 7, 1989, or a domestic partnership registered in accordance with executive order number 48, dated January 7, 1993.

Educational institution. The term "educational institution" includes kindergartens, primary and secondary schools, academies, colleges, universities, professional schools, extension courses, and all other educational facilities.

Employer. For purposes of subdivisions 1, 2, 3, 11-a, and 22, subparagraph 1 of paragraph a of subdivision 21, and paragraph e of subdivision 21 of section 8-107, the term "employer" does not include any employer with fewer than four persons in the employ of such employer. For purposes of this definition, natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers shall be counted as persons in the employ of such employer.

Employment agency. The term "employment agency" includes any person undertaking to procure employees or opportunities to work.

Family. The term "family," as used in subparagraph (4) of paragraph a of subdivision 5 of section 8-107, means either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. As used in this definition, a "boarder," "roomer" or "lodger" residing with a family means a person living within the household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein.

Gender. The term "gender" includes actual or perceived sex, gender identity and gender expression, including a person's actual or perceived gender-related self-image, appearance, behavior, expression or other gender-related characteristic, regardless of the sex assigned to that person at birth.

Housing accommodation. The term "housing accommodation" includes any building, structure or portion thereof that is used or occupied or is intended, arranged or designed to be used or occupied, as the home, residence or sleeping place of one or more human beings. Except as otherwise specifically provided, such term includes a publicly-assisted housing accommodation.

Intelligence information. 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.

Intern. 1. The term "intern" means an individual who performs work for an employer on a temporary basis whose work:

- (a) Provides training or supplements training given in an educational environment such that the employability of the individual performing the work may be enhanced;
- (b) Provides experience for the benefit of the individual performing the work; and
- (c) Is performed under the close supervision of existing staff.

2. The term includes such individuals without regard to whether the employer pays them a salary or wage.

Labor organization. The term “labor organization” includes any organization that exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms and conditions of employment, or of other mutual aid or protection in connection with employment.

Lawful source of income. The term “lawful source of income” includes income derived from social security, or any form of federal, state or local public assistance or housing assistance including section 8 vouchers.

National origin. The term “national origin” includes “ancestry.”

National security information. 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, is 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.

Occupation. The term “occupation” means any lawful vocation, trade, profession or field of specialization.

Partnership status. The term “partnership status” means the status of being in a domestic partnership, as defined by subdivision a of section 3-240.

Person. The term “person” includes one or more natural persons, proprietorships, partnerships, associations, group associations, organizations, governmental bodies or agencies, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

Person aggrieved. 1. The term “person aggrieved,” except as used in section 8-123, includes a person whose right created, granted or protected by this chapter is violated by a covered entity directly or through conduct of the covered entity to which the person’s agent or employee is subjected while the agent or employee was acting, or as a result of the agent or employee having acted, within the scope of the agency or employment relationship. For purposes of this definition, an agent or employee’s protected status is imputed to that person’s principal or employer when the agent or employee acts within the scope of the agency or employment relationship. It is irrelevant whether or not the covered entity knows of the agency or employment relationship.

2. A person is aggrieved even if that person’s only injury is the deprivation of a right granted or protected by this chapter.

3. This definition does not limit or exclude any other basis for a cause of action.

Place or provider of public accommodation. The term “place or provider of public accommodation” includes providers, whether licensed or unlicensed, of goods, services, facilities, accommodations, advantages or privileges of any kind, and places, whether licensed or unlicensed, where goods, services, facilities, accommodations, advantages or privileges of any kind are extended, offered, sold, or otherwise made available. Such term does not include any club which proves that it is in its nature distinctly private. A club is not in its nature distinctly private if it has more than 400 members, provides regular meal service and regularly receives payment for dues, fees, use of space, facilities, services, meals or beverages directly or indirectly from or on behalf of non-members for the furtherance of trade or business. For the purposes of this definition, a corporation incorporated under the benevolent orders law or described in the benevolent orders law but formed under any other law of this state, or a religious corporation incorporated under the education law or the religious corporation law is deemed to be in its nature distinctly private. No club that sponsors or conducts any amateur athletic contest or sparring exhibition and advertises or bills such contest or exhibition as a New York state championship contest or uses the words “New York state” in its announcements is a private exhibition within the meaning of this definition.

Publicly-assisted housing accommodations. The term “publicly-assisted housing accommodations” includes:

- 1. Publicly-owned or operated housing accommodations;

2. *Housing accommodations operated by housing companies under the supervision of the state commissioner of housing and community renewal, or the department of housing preservation and development;*

3. *Housing accommodations constructed after July 1, 1950, and housing accommodations sold after July 1, 1991:*

(a) *That are exempt in whole or in part from taxes levied by the state or any of its political subdivisions;*

(b) *That are constructed on land sold below cost by the state or any of its political subdivisions or any agency thereof, pursuant to the federal housing act of 1949;*

(c) *That are constructed in whole or in part on property acquired or assembled by the state or any of its political subdivisions or any agency thereof through the power of condemnation or otherwise for the purpose of such construction; or*

(d) *For the acquisition, construction, repair or maintenance for which the state or any of its political subdivisions or any agency thereof supplies funds or other financial assistance; and*

4. *Housing accommodations, the acquisition, construction, rehabilitation, repair or maintenance of which is, after July 1, 1955, financed in whole or in part by a loan, whether or not secured by a mortgage, the repayment of which is guaranteed or insured by the federal government or any agency thereof, or the state or any of its political subdivisions or any agency thereof.*

Real estate broker. The term "real estate broker" means any person who, for another and for a fee, commission or other valuable consideration, lists for sale, sells, at auction or otherwise, exchanges, buys or rents, or offers or attempts to negotiate a sale at auction, or otherwise, exchange, purchase or rental of an estate or interest in real estate or collects or offers or attempts to collect rent for the use of real estate, or negotiates, or offers or attempts to negotiate, a loan secured or to be secured by a mortgage or other incumbrance upon or transfer of real estate. In the sale of lots pursuant to the provisions of article nine-a of the real property law, the term "real estate broker" shall also include any person employed by or on behalf of the owner or owners of lots or other parcels of real estate, at a stated salary, or upon commission, or upon a salary and commission, or otherwise, to sell such real estate, or any parts thereof, in lots or other parcels, and who shall sell or exchange, or offer or attempt or agree to negotiate the sale or exchange of any such lot or parcel of real estate.

Real estate salesperson. The term "real estate salesperson" means a person employed by or authorized by a licensed real estate broker to list for sale, sell or offer for sale at auction or otherwise to buy or offer to buy or to negotiate the purchase or sale or exchange of real estate or to negotiate a loan on real estate or to lease or rent or offer to lease, rent or place for rent any real estate, or who collects or offers or attempts to collect rents for the use of real estate for or on behalf of such real estate broker.

Reasonable accommodation. 1. The term "reasonable accommodation" means such accommodation that can be made that does not cause undue hardship in the conduct of the covered entity's business. The covered entity has the burden of proving undue hardship. In making a determination of undue hardship with respect to claims filed under subdivisions 1, 2, 22 or 27 of section 8-107, the factors which may be considered include but are not limited to:

(a) *The nature and cost of the accommodation;*

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

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

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

2. *In making a determination of undue hardship with respect to claims for reasonable accommodation to an employee's or prospective employee's religious observance filed under subdivision 3 of section 8-107, the definition of "undue hardship" set forth in paragraph b of such subdivision applies.*

Sexual orientation. The term "sexual orientation" means an individual's actual or perceived romantic, physical or sexual attraction to other persons, or lack thereof, on the basis of gender. A continuum of sexual

orientation exists and includes, but is not limited to, heterosexuality, homosexuality, bisexuality, asexuality and pansexuality.

Trade secrets. The term “trade secrets” means information that (i) 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; (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; and (iii) 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.

Unemployed or unemployment. The term “unemployed” or “unemployment” means not having a job, being available for work, and seeking employment.

Uniformed service. The term “uniformed service” means:

1. Current or prior service in:

(a) The United States army, navy, air force, marine corps, coast guard, commissioned corps of the national oceanic and atmospheric administration, commissioned corps of the United States public health services, army national guard or air national guard;

(b) The organized militia of the state of New York, as described in section 2 of the military law, or the organized militia of any other state, territory or possession of the United States; or

(c) Any other service designated as part of the “uniformed services” pursuant to subsection (16) of section 4303 of title 38 of the United States code;

2. Membership in any reserve component of the United States army, navy, air force, marine corps, or coast guard; or

3. Being listed on the state reserve list or the state retired list as described in section 2 of the military law or comparable status for any other state, territory or possession of the United States.

Unlawful discriminatory practice. The term “unlawful discriminatory practice” includes only those practices specified in section 8-107.

Victim of domestic violence. The term “victim of domestic violence” means a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or by a person who is or has continually or at regular intervals lived in the same household as the victim.

Victim of sex offenses or stalking. The term “victim of sex offenses or stalking” means a victim of acts that would constitute violations of article 130 of the penal law or a victim of acts that would constitute violations of sections 120.45, 120.50, 120.55, or 120.60 of the penal law.

§ 4. Sections 8-103, 8-104, 8-105 and 8-106 of the administrative code of the city of New York are REPEALED.

§ 5. Paragraphs (e) and (f) of subdivision 1 of section 8-107 of the administrative code of the city of New York, paragraph (e) of such subdivision as amended by local law number 39 for the year 1991 and paragraph (f) of such subdivision as amended by local law number 27 for the year 1998, are amended to read as follows:

(e) The provisions of this subdivision and subdivision [two] 2 of this section: (i) as they apply to employee benefit plans, shall not be construed to preclude an employer from observing the provisions of any plan covered by the federal employment retirement income security act of [nineteen hundred seventy-four] 1974 that is in compliance with applicable federal discrimination laws where the application of the provisions of such subdivisions to such plan would be preempted by such act; (ii) shall not preclude the varying of insurance coverages according to an employee’s age; (iii) shall not be construed to affect any retirement policy or system that is permitted pursuant to [paragraph] paragraphs (e) and (f) of subdivision [three-a] 3-a of section [two hundred ninety-six] 296 of the executive law; (iv) shall not be construed to affect the retirement policy or system of an employer where such policy or system is not a subterfuge to evade the purposes of this chapter.

(f) The provisions of this subdivision shall not govern the employment by an employer of [his or her] the employer’s parents, spouse, domestic partner, or children; provided, however, that such family members shall be counted as persons employed by an employer for the purposes of [subdivision five of] the definition of employer set forth in section 8-102 [of this chapter].

§ 6. Paragraphs (b), (c) and (d) of subdivision 2 of section 8-107 of the administrative code of the city of New York, as amended by local law number 119 for the year 2017, are amended to read as follows:

(b) To deny to or withhold from any person because of [his or her] *such person's* actual or perceived race, creed, color, national origin, gender, age, disability, marital status, partnership status, sexual orientation, uniformed service, [or] alienage or citizenship status *or status as a victim of domestic violence or as a victim of sex offenses or stalking* the right to be admitted to or participate in a guidance program, an apprentice training program, on-the-job training program, or other occupational training or retraining program, or to represent that such program is not available when in fact it is available.

(c) To discriminate against any person in [his or her] *such person's* pursuit of such program or to discriminate against such a person in the terms, conditions or privileges of such program because of actual or perceived race, creed, color, national origin, gender, age, disability, marital status, partnership status, sexual orientation, uniformed service, [or] alienage or citizenship status *or status as a victim of domestic violence or as a victim of sex offenses or stalking*.

(d) To declare, print or circulate or cause to be declared, printed or circulated any statement, advertisement or publication, or to use any form of application for such program or to make any inquiry in connection with such program which expresses, directly or indirectly, any limitation, specification or discrimination as to race, creed, color, national origin, gender, age, disability, marital status, partnership status, sexual orientation, uniformed service, [or] alienage or citizenship status *or status as a victim of domestic violence or as a victim of sex offenses or stalking*, or any intent to make any such limitation, specification or discrimination.

§ 7. Subdivision 3 of section 8-107 of the administrative code of the city of New York, as amended by local law number 54 for the year 2011, is amended to read as follows:

3. Employment; religious observance. (a) It shall be an unlawful discriminatory practice for an employer or an employee or agent thereof to impose upon a person as a condition of obtaining or retaining employment any terms or conditions, compliance with which would require such person to violate, or forego a practice of, [his or her] *such person's* creed or religion, including but not limited to the observance of any particular day or days or any portion thereof as a sabbath or holy day or the observance of any religious custom or usage, and the employer shall make reasonable accommodation to the religious needs of such person. Without in any way limiting the foregoing, no person shall be required to remain at [his or her] *such person's* place of employment during any day or days or portion thereof that, as a requirement of such person's religion, [he or she] *such person* observes as a sabbath or other holy day, including a reasonable time prior and subsequent thereto for travel between [his or her] *such person's* place of employment and [his or her] *such person's* home, provided, however, that any such absence from work shall, wherever practicable in the judgment of the employer, be made up by an equivalent amount of time at some other mutually convenient time.

(b) "Reasonable accommodation", as used in this subdivision, shall mean such accommodation to an employee's or prospective employee's religious observance or practice as shall not cause undue hardship in the conduct of the employer's business. The employer shall have the burden of proof to show such hardship. "Undue hardship" as used in this subdivision shall mean an accommodation requiring significant expense or difficulty (including a significant interference with the safe or efficient operation of the workplace or a violation of a bona fide seniority system). Factors to be considered in determining whether the accommodation constitutes an undue economic hardship shall include, but not be limited to:

(i) [the] *The* identifiable cost of the accommodation, including the costs of loss of productivity and of retaining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the employer;

(ii) [the] *The* number of individuals who will need the particular accommodation to a sincerely held religious observance or practice; and

(iii) [for] *For* an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

Provided, however, an accommodation shall be considered to constitute an undue hardship, for purposes of this subdivision, if it will result in the inability of an employee who is seeking a religious accommodation to perform the essential functions of the position in which [he or she] *the employee* is employed.

§ 8. Paragraphs c and e of subdivision 4 of section 8-107 of the administrative code of the city of New York, paragraph c of such subdivision as amended by local law number 39 for the year 1991 and paragraph e of such subdivision as amended by local law number 34 for the year 2016, are amended to read as follows:

c. The provisions of this subdivision relating to discrimination on the basis of gender shall not prohibit any educational institution subject to this subdivision from making gender distinctions which would be permitted (i) for educational institutions which are subject to section [thirty-two hundred one] 3201-a of the education law or any rules or regulations promulgated by the state commissioner of education relating to gender or (ii) under sections 86.32, 86.33 and 86.34 of title [forty-five] 45 of the code of federal regulations for educational institutions covered thereunder.

e. The provisions of this section relating to disparate impact shall not apply to the use of standardized tests as defined by section [three hundred forty] 340 of the education law by an educational institution subject to this subdivision provided that such test is used in the manner and for the purpose prescribed by the test agency which designed the test.

§ 9. Paragraphs (g), (h), (i), (j) and (l) of subdivision 5 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, are amended to read as follows:

(g) Applicability; persons under [eighteen] 18 years of age. The provisions of this subdivision, as they relate to unlawful discriminatory practices in housing accommodations, land and commercial space or an interest therein and lending practices on the basis of age, shall not apply to unemancipated persons under the age of [eighteen] 18 years.

(h) Applicability; discrimination against persons with children. The provisions of this subdivision with respect to discrimination against persons with whom children are, may be or would be residing shall not apply to housing for older persons as defined in paragraphs [two] 2 and [three] 3 of subdivision (b) of section [thirty-six hundred seven] 3607 of title [forty-two] 42 of the United States code and any regulations promulgated thereunder.

(i) Applicability; senior citizen housing. The provisions of this subdivision with respect to discrimination on the basis of age shall not apply to the restriction of the sale, rental or lease of any housing accommodation, land or commercial space or an interest therein exclusively to persons [fifty-five] 55 years of age or older. This paragraph shall not be construed to permit discrimination against such persons [fifty-five] 55 years of age or older on the basis of whether children are, may be or would be residing in such housing accommodation or land or an interest therein unless such discrimination is otherwise permitted pursuant to paragraph (h) of this subdivision.

(j) Applicability; dormitory residence operated by educational institution. The provisions of this subdivision relating to discrimination on the basis of gender in housing accommodations shall not prohibit any educational institution from making gender distinctions in dormitory residences which would be permitted under sections 86.32 and 86.33 of title [forty-five] 45 of the code of federal regulations for educational institutions covered thereunder.

(l) Exemption for special needs of particular age group in publicly-assisted housing accommodations. Nothing in this subdivision shall restrict the consideration of age in the rental of publicly-assisted housing accommodations if the state division of human rights grants an exemption pursuant to section [two hundred ninety-six] 296 of the executive law based on bona fide considerations of public policy for the purpose of providing for the special needs of a particular age group without the intent of prejudicing other age groups; provided however, that this paragraph shall not be construed to permit discrimination on the basis of whether children are, may be or would be residing in such housing accommodations unless such discrimination is otherwise permitted pursuant to paragraph (h) of this [section] *subdivision*.

§ 10. Subparagraphs (3), (4) and (5) of paragraph (a) and subparagraph (1) of paragraph (d) of subdivision 9 of section 8-107 of the administrative code of the city of New York, subparagraphs (3), (4) and (5) of paragraph (a) of such subdivision as amended by local law number 63 for the year 2015 and subparagraph (1) of paragraph (d) of such subdivision as added by local law number 37 for the year 2015, are amended to read as follows:

(3) For any person to deny any license, registration or permit to any applicant, or act adversely upon any holder of a license, registration or permit by reason of [his or her] *such applicant or holder* having been convicted of one or more criminal offenses, or by reason of a finding of a lack of “good moral character” which is based on [his or her] *such applicant or holder* having been convicted of one or more criminal offenses, when such denial or adverse action is in violation of the provisions of article [twenty-three-a] 23-a of the correction law.

(4) For any person to deny any license, registration or permit to any applicant, or act adversely upon any holder of a license, registration or permit by reason of [his or her] *such applicant or holder* having been arrested or accused of committing a crime when such denial or adverse action is in violation of subdivision 16 of section 296 of article 15 of the [New York state] executive law.

(5) For any person to make any inquiry, in writing or otherwise, regarding any arrest or criminal accusation of an applicant for any license, registration or permit when such inquiry is in violation of subdivision 16 of section 296 of article 15 of the [New York state] executive law.

(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].

§ 11. Paragraphs (a) and (c) of subdivision 10 of section 8-107 of the administrative code of the city of New York, as amended by local law number 63 for the year 2015, are amended to read as follows:

(a) It shall be an unlawful discriminatory practice for any employer, employment agency or agent thereof to deny employment to any person or take adverse action against any employee by reason of such person or employee having been convicted of one or more criminal offenses, or by reason of a finding of a lack of “good moral character” which is based on such person or employee having been convicted of one or more criminal offenses, when such denial or adverse action is in violation of the provisions of article [twenty-three-a] 23-a of the correction law.

(c) Pursuant to section [seven hundred fifty-five] 755 of the correction law, the provisions of this subdivision shall be enforceable against public agencies by a proceeding brought pursuant to article [seventy-eight] 78 of the [Civil Practice Law and Rules] *civil practice law and rules*, and the provisions of this subdivision shall be enforceable against private employers by the commission through the administrative procedure provided for in this chapter or as provided in chapter [five] 5 of this title. For purposes of this paragraph only, the terms “public agency” and “private employer” [shall] have the meaning given such terms in section [seven hundred fifty] 750 of the correction law.

§ 12. Subdivision 11 of section 8-107 of the administrative code of the city of New York, as amended by local law number 63 for the year 2015, is amended to read as follows:

11. Arrest record; employment. It shall be an unlawful discriminatory practice, unless specifically required or permitted by any other law, for any person to:

(a) [deny] *Deny* employment to any applicant or act adversely upon any employee by reason of an arrest or criminal accusation of such applicant or employee when such denial or adverse action is in violation of subdivision 16 of section 296 of article 15 of the [New York state] executive law; or

(b) [make] *Make* any inquiry in writing or otherwise, regarding any arrest or criminal accusation of an applicant or employee when such inquiry is in violation of subdivision 16 of section 296 of article 15 of the [New York state] executive law.

§ 13. Subdivision 11-a of section 8-107 of the administrative code of the city of New York, as amended by local law number 40 for the year 2016, is amended to read as follows:

11-a. Arrest and conviction records; employer inquiries. (a) In addition to the restrictions in subdivision 11 of this section, it shall be an unlawful discriminatory practice for any employer, employment agency or agent thereof to:

(1) Declare, print or circulate or cause to be declared, printed or circulated any solicitation, advertisement or publication, which expresses, directly or indirectly, any limitation, or specification in employment based on a person’s arrest or criminal conviction;

(2) Because of any person’s arrest or criminal conviction, represent that any employment or position is not available, when in fact it is available to such person; or

(3) Make any inquiry or statement related to the pending arrest or criminal conviction record of any person who is in the process of applying for employment with such employer or agent thereof until after such employer or agent thereof has extended a conditional offer of employment to the applicant. For purposes of this subdivision, with respect to an applicant for temporary employment at a temporary help firm as such term is defined by subdivision [five] 5 of section 916 of article 31 of the labor law, an offer to be placed in the temporary help firm’s general candidate pool shall constitute a conditional offer of employment. For purposes of this subdivision, “any inquiry” means any question communicated to an applicant in writing or otherwise, or any searches of publicly available records or consumer reports that are conducted for the purpose of obtaining

an applicant's criminal background information, and "any statement" means a statement communicated in writing or otherwise to the applicant for purposes of obtaining an applicant's criminal background information regarding: (i) an arrest record; (ii) a conviction record; or (iii) a criminal background check.

(b) After extending an applicant a conditional offer of employment, an employer, employment agency or agent thereof may inquire about the applicant's arrest or conviction record if before taking any adverse employment action based on such inquiry, the employer, employment agency or agent thereof:

(i) [provides] *Provides* a written copy of the inquiry to the applicant in a manner to be determined by the commission;

(ii) [performs] *Performs* an analysis of the applicant under article [twenty-three-a] 23-a of the correction law and provides a written copy of such analysis to the applicant in a manner to be determined by the commission, which shall include but not be limited to supporting documents that formed the basis for an adverse action based on such analysis and the employer's or employment agency's reasons for taking any adverse action against such applicant; and

(iii) [after] *After* giving the applicant the inquiry and analysis in writing pursuant to subparagraphs (i) and (ii) of this paragraph, allows the applicant a reasonable time to respond, which shall be no less than three business days and during this time, holds the position open for the applicant.

(c) Nothing in this subdivision shall prevent an employer, employment agency or agent thereof from taking adverse action against any employee or denying employment to any applicant for reasons other than such employee or applicant's arrest or criminal conviction record.

(d) An applicant shall not be required to respond to any inquiry or statement that violates paragraph (a) of this subdivision and any refusal to respond to such inquiry or statement shall not disqualify an applicant from the prospective employment.

(e) This subdivision shall not apply to any actions taken by an employer or agent thereof pursuant to any state, federal or local law that requires criminal background checks for employment purposes or bars employment based on criminal history. For purposes of this paragraph federal law shall include rules or regulations promulgated by a self-regulatory organization as defined in section 3(a)(26) of the securities exchange act of 1934, as amended.

(f) This subdivision shall not apply to any actions taken by an employer or agent thereof with regard to an applicant for employment:

(1) [as] As a police officer or peace officer, as those terms are defined in subdivisions [thirty-three] 33 and [thirty-four] 34 of section 1.20 of the criminal procedure law, respectively, or at a law enforcement agency as that term is used in article 23-a of the correction law, including but not limited to the police department, the fire department, the department of correction, the department of investigation, the department of probation, the division of youth and family services, the business integrity commission, and the district attorneys' offices; or

(2) listed in the determinations of personnel published as a commissioner's calendar item and listed on the website of the department of citywide administrative services upon a determination by the commissioner of citywide administrative services that the position involves law enforcement, is susceptible to bribery or other corruption, or entails the provision of services to or safeguarding of persons who, because of age, disability, infirmity or other condition, are vulnerable to abuse. If the department takes adverse action against any applicant based on the applicant's arrest or criminal conviction record, it shall provide a written copy of such analysis performed under article [twenty-three a] 23-a of the correction law to the applicant in a form and manner to be determined by the department.

(g) The provisions of this subdivision shall be enforceable against public agencies by a proceeding brought pursuant to article [seventy-eight] 78 of the [Civil Practice Law and Rules] *civil practice law and rules*, and the provisions of this subdivision shall be enforceable against private employers by the commission through the administrative procedure provided for in this chapter or as provided in chapter [five] 5 of this title. For purposes of this paragraph only, the terms "public agency" and "private employer" [shall] have the meaning given such terms in section [seven hundred fifty] 750 of the correction law.

§ 14. Paragraphs a, b, e and f of subdivision 13 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, are amended to read as follows:

a. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of any provision of this section other than subdivisions [one] 1 and [two] 2 of this section.

b. An employer shall be liable for an unlawful discriminatory practice based upon the conduct of an employee or agent which is in violation of subdivision [one] 1 or [two] 2 of this section only where:

(1) [the] *The* employee or agent exercised managerial or supervisory responsibility; or

(2) [the] *The* employer knew of the employee's or agent's discriminatory conduct, and acquiesced in such conduct or failed to take immediate and appropriate corrective action; an employer shall be deemed to have knowledge of an employee's or agent's discriminatory conduct where that conduct was known by another employee or agent who exercised managerial or supervisory responsibility; or

(3) [the] *The* employer should have known of the employee's or agent's discriminatory conduct and failed to exercise reasonable diligence to prevent such discriminatory conduct.

e. The demonstration of any or all of the factors listed above in addition to any other relevant factors shall be considered in mitigation of the amount of civil penalties to be imposed by the commission pursuant to this chapter or in mitigation of civil penalties or punitive damages which may be imposed pursuant to chapter [four] 4 or [five] 5 of this title and shall be among the factors considered in determining an employer's liability under subparagraph [three] 3 of paragraph b of this subdivision.

f. The commission may establish by rule policies, programs and procedures which may be implemented by employers for the prevention and detection of unlawful discriminatory practices by employees, agents and persons employed as independent contractors. Notwithstanding any other provision of law to the contrary, an employer found to be liable for an unlawful discriminatory practice based solely on the conduct of an employee, agent or person employed as an independent contractor who pleads and proves that such policies, programs and procedures had been implemented and complied with at the time of the unlawful conduct shall not be liable for any civil penalties which may be imposed pursuant to this chapter or any civil penalties or punitive damages which may be imposed pursuant to chapter [four] 4 or [five] 5 of this title for such unlawful discriminatory practices.

§ 15. Subdivision 14 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, is amended to read as follows:

14. Applicability; alienage or citizenship status. Notwithstanding any other provision of this section, it shall not be an unlawful discriminatory practice for any person to discriminate on the ground of alienage or citizenship status, or to make any inquiry as to a person's alienage or citizenship status, or to give preference to a person who is a citizen or national of the United States over an equally qualified person who is an alien, when such discrimination is required or when such preference is expressly permitted by any law or regulation of the United States, the state of New York or the city [of New York], and when such law or regulation does not provide that state or local law may be more protective of aliens; provided, however, that this provision shall not prohibit inquiries or determinations based on alienage or citizenship status when such actions are necessary to obtain the benefits of a federal program. An applicant for a license or permit issued by the city [of New York] may be required to be authorized to work in the United States whenever by law or regulation there is a limit on the number of such licenses or permits which may be issued.

§ 16. Paragraph (a) of subdivision 15 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, is amended to read as follows:

(a) Requirement to make reasonable accommodation to the needs of persons with disabilities. Except as provided in paragraph (b), *it is an unlawful discriminatory practice for* any person prohibited by the provisions of this section from discriminating on the basis of disability [shall make] *not to provide a* reasonable accommodation to enable a person with a disability to satisfy the essential requisites of a job or enjoy the right or rights in question provided that the disability is known or should have been known by the covered entity.

§ 17. Paragraph a of subdivision 17 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, is amended to read as follows:

17. Disparate impact. a. An unlawful discriminatory practice based upon disparate impact is established when:

(1) [the] *The* commission or a person who may bring an action under chapter [four] 4 or [five] 5 of this title demonstrates that a policy or practice of a covered entity or a group of policies or practices of a covered entity results in a disparate impact to the detriment of any group protected by the provisions of this chapter; and

(2) [the] *The* covered entity fails to plead and prove as an affirmative defense that each such policy or practice bears a significant relationship to a significant business objective of the covered entity or does not

contribute to the disparate impact; provided, however, that if the commission or such person who may bring an action demonstrates that a group of policies or practices results in a disparate impact, the commission or such person shall not be required to demonstrate which specific policies or practices within the group results in such disparate impact; provided further, that a policy or practice or group of policies or practices demonstrated to result in a disparate impact shall be unlawful where the commission or such person who may bring an action produces substantial evidence that an alternative policy or practice with less disparate impact is available to the covered entity and the covered entity fails to prove that such alternative policy or practice would not serve the covered entity as well. "Significant business objective" shall include, but not be limited to, successful performance of the job.

§ 18. Subdivision 19 of section 8-107 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, is amended to read as follows:

19. Interference with protected rights. It shall be an unlawful discriminatory practice for any person to coerce, intimidate, threaten or interfere with, or attempt to coerce, intimidate, threaten or interfere with, any person in the exercise or enjoyment of, or on account of [his or her] *such person* having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected pursuant to this section.

§ 19. Paragraphs b, c and e of subdivision 21 of section 8-107 of the administrative code of the city of New York, as added by local law number 14 for the year 2013, are amended to read as follows:

b. Effect of subdivision. (1) Paragraph a of this subdivision shall not be construed to prohibit an employer, employment agency, or agent thereof from (a) considering an applicant's unemployment, where there is a substantially job-related reason for doing so; or (b) inquiring into the circumstances surrounding an applicant's separation from prior employment.

(2) Nothing set forth in this subdivision shall be construed as prohibiting an employer, employment agency, or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from considering any substantially job-related qualifications, including but not limited to: a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.

(3) Nothing set forth in this subdivision shall be construed as prohibiting an employer, employment agency, or agent thereof from publishing, in print or in any other medium, an advertisement for any job vacancy in this city that contains any provision setting forth any substantially job-related qualifications, including but not limited to: a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.

(4) (a) Nothing set forth in this subdivision shall be construed as prohibiting an employer, employment agency, or agent thereof, when making employment decisions with regard to hiring, compensation, or the terms, conditions or privileges of employment, from determining that only applicants who are currently employed by the employer will be considered for employment or given priority for employment or with respect to compensation or terms, conditions or privileges of employment. In addition, nothing set forth in this subdivision shall prevent an employer from setting compensation or terms or conditions of employment for a person based on that person's actual amount of experience.

(b) For the purposes of this subparagraph, all persons whose salary or wages are paid from the city treasury, and all persons who are employed by public agencies or entities headed by officers or boards including one or more individuals appointed or recommended by officials of the city [of New York], shall be deemed to have the same employer.

c. Applicability of subdivision. (1) This subdivision shall not apply to:

(a) [actions] *Actions* taken by the [New York city] department of citywide administrative services in furtherance of its responsibility for city personnel matters pursuant to chapter [thirty-five] 35 of the charter or as a municipal civil service commission administering the civil service law and other applicable laws, or by the mayor in furtherance of the mayor's duties relating to city personnel matters pursuant to chapter [thirty-five] 35 of the charter, including, but not limited to, the administration of competitive examinations, the establishment and administration of eligible lists, and the establishment and implementation of minimum qualifications for appointment to positions;

(b) [actions] *Actions* taken by officers or employees of other public agencies or entities charged with performing functions comparable to those performed by the department of citywide administrative services or the mayor as described in paragraph [one] *I* of this subdivision;

(c) [agency] *Agency* appointments to competitive positions from eligible lists pursuant to subsection [one] 1 of section [sixty-one] *61* of the [state] civil service law; or

(d) [the] *The* exercise of any right of an employer or employee pursuant to a collective bargaining agreement.

(2) This subdivision shall apply to individual hiring decisions made by an agency or entity with respect to positions for which appointments are not required to be made from an eligible list resulting from a competitive examination.

e. Disparate impact. An unlawful discriminatory practice based on disparate impact under this subdivision is established when: (1) the commission or a person who may bring an action under chapter [four] *4* or [five] *5* of this title demonstrates that a policy or practice of an employer, employment agency, or agent thereof, or a group of policies or practices of such an entity results in a disparate impact to the detriment of any group protected by the provisions of this subdivision; and (2) such entity fails to plead and prove as an affirmative defense that each such policy or practice has as its basis a substantially job-related qualification or does not contribute to the disparate impact; provided, however, that if the commission or such person who may bring an action demonstrates that a group of policies or practices results in a disparate impact, the commission or such person shall not be required to demonstrate which specific policies or practices within the group results in such disparate impact; provided further, that a policy or practice or group of policies or practices demonstrated to result in a disparate impact shall be unlawful where the commission or such person who may bring an action produces substantial evidence that an alternative policy or practice with less disparate impact is available to such entity and such entity fails to prove that such alternative policy or practice would not serve such entity as well. A “substantially job-related qualification” shall include, but not be limited to, a current and valid professional or occupational license; a certificate, registration, permit, or other credential; a minimum level of education or training; or a minimum level of professional, occupational, or field experience.

§ 20. Subdivision 22 of section 8-107 of the administrative code of the city of New York, as added by local law number 78 for the year 2013, is amended to read as follows:

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

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

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

§ 21. Subdivision 24 of section 8-107 of the administrative code of the city of New York, as added by local law number 37 for the year 2015, is amended 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] *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] *Persons* applying for positions as or employed:

(A) [as] *As* police officers or peace officers, as those terms are defined in subdivisions [thirty-three] 33 and [thirty-four] 34 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] *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] *In* a position in which an employee is required to be bonded under [City] *city*, state or federal law;

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

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

(F) [in] *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[.]; *or*

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

§ 22. Section 8-107.1 of chapter 1 of title 8 of the administrative code of the city of New York, as amended by local law number 40 for the year 2016, is re-designated as a new subdivision 27 of section 8-107 of the administrative code of the city of New York and amended to read as follows:

[§ 8-107.1] 27. Victims of [Domestic Violence, Sex offenses or Stalking] *domestic violence, sex offenses or stalking*. [a. Definitions. Whenever used in this chapter the following terms have the following meanings:

“Acts or threats of violence” includes, but is not limited to, acts, which would constitute violations of the penal law.

“Victim of domestic violence” means a person who has been subjected to acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, or a person who is or has continually or at regular intervals lived in the same household as the victim.

“Victim of sex offenses or stalking” means a victim of acts which would constitute violations of article 130 of the penal law, or a victim of acts which would constitute violations of sections 120.45, 120.50, 120.55, or 120.60 of the penal law.

Practices “based on,” “because of,” “on account of,” “as to,” “on the basis of,” or “motivated by” an individual’s “status as a victim of domestic violence,” or “status as a victim of sex offenses or stalking” include, but are not limited to, those based solely upon the actions of a person who has perpetrated acts or threats of violence against the individual.

b. Unlawful discriminatory practices] *a. Employment.* [1. (a)] It shall be an unlawful discriminatory practice for an employer, or an agent thereof, because of any individual’s actual or perceived status as a victim of domestic violence, or as a victim of sex offenses or stalking:

- (1) To represent that any employment or position is not available when in fact it is available;
- (2) To refuse to hire or employ or to bar or to discharge from employment; or
- (3) To discriminate against an individual in compensation or other terms, conditions, or privileges of employment.

[(b)] *b. Requirement to make reasonable accommodation to the needs of victims of domestic violence, sex offenses or stalking.* Except as provided in [subparagraph (d)] *paragraph d, it is an unlawful discriminatory practice for any person prohibited by paragraph [1] a from discriminating on the basis of actual or perceived status as a victim of domestic violence or a victim of sex offenses or stalking [shall make] not to provide a reasonable accommodation to enable a person who is a victim of domestic violence, or a victim of sex offenses or stalking to satisfy the essential requisites of a job provided that the status as a victim of domestic violence or a victim of sex offenses or stalking is known or should have been known by the covered entity.*

[(c)] *c. Documentation of status.* Any person required by [subparagraph (b)] *paragraph b to make reasonable accommodation may require a person requesting reasonable accommodation pursuant to [subparagraph (b)] such paragraph to provide certification that the person is a victim of domestic violence, sex offenses or stalking. The person requesting reasonable accommodation pursuant to [subparagraph (b)] such paragraph shall provide a copy of such certification to the covered entity within a reasonable period after the request is made. A person may satisfy the certification requirement of this paragraph by providing documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider, from whom the individual seeking a reasonable accommodation or that individual’s family or household member has sought assistance in addressing domestic violence, sex offenses or stalking and the effects of the violence or stalking; a police or court record; or other corroborating evidence. All information provided to the covered entity pursuant to this paragraph, including a statement of the person requesting a reasonable accommodation or any other documentation, record, or corroborating evidence, and the fact that the individual has requested or obtained a reasonable accommodation pursuant to this [section] subdivision, shall be retained in the strictest confidence by the covered entity, except to the extent that disclosure is requested or consented to in writing by the person requesting the reasonable accommodation[;], or otherwise required by applicable federal, state or local law.*

[(d)] *d. Affirmative defense in domestic violence, sex offenses or stalking cases.* In any case where the need for reasonable accommodation is placed in issue, it shall be an affirmative defense that the person aggrieved by the alleged discriminatory practice could not, with reasonable accommodation, satisfy the essential requisites of the job or enjoy the right or rights in question.

[2. (a)] *e. Housing accommodations.* It shall be an unlawful discriminatory practice for the owner, lessor, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease or approve the sale, rental or lease of a housing accommodation, constructed or to be constructed, or an interest therein, or any agent or employee thereof, because of any individual’s actual or perceived status as a victim of domestic violence, or as a victim of sex offenses or stalking:

(1) To refuse to sell, rent, lease, approve the sale, rental or lease or otherwise deny to or withhold from any person or group of persons such a housing accommodation or an interest therein, or to discriminate in the terms, conditions, or privileges of the sale, rental or lease of any such housing accommodation or an interest therein or in the furnishing of facilities or services in connection therewith because of an actual or perceived status of said individual as a victim of domestic violence, or as a victim of sex offenses or stalking; or

(2) To represent that such housing accommodation or an interest therein is not available when in fact it is available.

[(b)]*f.* The provisions of [this] paragraph [2] *e* shall not apply:

(1) To the rental of a housing accommodation, other than a publicly-assisted housing accommodation, in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or members of the owner's family reside in one of such housing accommodations, and if the available housing accommodation has not been publicly advertised, listed, or otherwise offered to the general public; or

(2) To the rental of a room or rooms in a housing accommodation, other than a publicly-assisted housing accommodation, if such rental is by the occupant of the housing accommodation or by the owner of the housing accommodation and the owner or members of the owner's family reside in such housing accommodation.

g. For the purposes of this subdivision, practices "based on," "because of," "on account of," "as to," "on the basis of," or "motivated by" an individual's "status as a victim of domestic violence," or "status as a victim of sex offenses or stalking" include, but are not limited to, those based solely upon the actions of a person who has perpetrated acts or threats of violence against the individual.

§ 23. Section 8-109 of the administrative code of the city of New York, as amended by local law number 85 for the year 2005, is amended to read as follows:

§ 8-109 Complaint. (a) Any person aggrieved by an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title [may, by himself or herself], or such person's attorney, *may* make, sign and file with the commission a verified complaint in writing which shall: (i) state the name of the person alleged to have committed the unlawful discriminatory practice or act of discriminatory harassment or violence complained of, and the address of such person if known; (ii) set forth the particulars of the alleged unlawful discriminatory practice or act of discriminatory harassment or violence; and (iii) contain such other information as may be required by the commission. The commission shall acknowledge the filing of the complaint and advise the complainant of the time limits set forth in this chapter.

(b) Any employer whose employee or agent refuses or threatens to refuse to cooperate with the provisions of this chapter may file with the commission a verified complaint asking for assistance by conciliation or other remedial action.

(c) Commission-initiated complaints. The commission may itself make, sign and file a verified complaint alleging that a person has committed an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title.

(d) The commission shall serve a copy of the complaint upon the respondent and all persons it deems to be necessary parties and shall advise the respondent of [his or her] *the respondent's* procedural rights and obligations as set forth herein.

(e) The commission shall not have jurisdiction over any complaint that has been filed more than one year after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title occurred.

(f) The commission shall not have jurisdiction to entertain a complaint if:

(i) [the] *The* complainant has previously initiated a civil action in a court of competent jurisdiction alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title with respect to the same grievance which is the subject of the complaint under this chapter, unless such civil action has been dismissed without prejudice or withdrawn without prejudice; or

(ii) [the] *The* complainant has previously filed [and] has an action or proceeding before any administrative agency under any other law of the state alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title with respect to the same grievance which is the subject of the complaint under this chapter; or

(iii) [the] *The* complainant has previously filed a complaint with the state division of human rights alleging an unlawful discriminatory practice as defined by this chapter or an act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title with respect to the same grievance which is the subject of the complaint under this chapter and a final determination has been made thereon.

(g) In relation to complaints filed on or after September [first] 1, [nineteen hundred ninety-one] 1991, the commission shall commence proceedings with respect to the complaint, complete a thorough investigation of the allegations of the complaint and make a final disposition of the complaint promptly and within the time periods to be prescribed by rule of the commission. If the commission is unable to comply with the time periods specified for completing its investigation and for final disposition of the complaint, it shall notify the complainant, respondent, and any necessary party in writing of the reasons for not doing so.

(h) Any complaint filed pursuant to this section may be amended pursuant to procedures prescribed by rule of the commission by filing such amended complaint with the commission and serving a copy thereof upon all parties to the proceeding.

(i) Whenever a complaint is filed pursuant to paragraph (d) of subdivision [five] 5 of section 8-107 [of this chapter], no member of the commission nor any member of the commission staff shall make public in any manner whatsoever the name of any borrower or identify by a specific description the collateral for any loan to such borrower except when ordered to do so by a court of competent jurisdiction or where express permission has been first obtained in writing from the lender and the borrower to such publication; provided, however, that the name of any borrower and a specific description of the collateral for any loan to such borrower may, if otherwise relevant, be introduced in evidence in any hearing before the commission or any review by a court of competent jurisdiction of any order or decision by the commission.

§ 24. Subdivision a of section 8-111 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

a. Within [thirty] 30 days after a copy of the complaint is served upon the respondent by the commission, the respondent shall file a written, verified answer thereto with the commission, and the commission shall cause a copy of such answer to be served upon the complainant and any necessary party.

§ 25. Subdivision c of section 8-112 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

c. Unless such complaint is withdrawn pursuant to a conciliation agreement, the withdrawal of a complaint shall be without prejudice:

[(i) to] 1. *To* the continued prosecution of the complaint by the commission in accordance with rules of the commission;

[(ii) to] 2. *To* the initiation of a complaint by the commission based in whole or in part upon the same facts; or

[(iii) to] 3. *To* the commencement of a civil action by the corporation counsel based upon the same facts pursuant to chapter [four] 4 of this title.

§ 26. Subdivisions a, d and f of section 8-113 of the administrative code of the city of New York, subdivisions a and f of such section as added by local law number 39 for the year 1991 and subdivision d of such section as amended by local law number 11 for the year 1993, are amended to read as follows:

§ 8-113 Dismissal of complaint. a. The commission may, in its discretion, dismiss a complaint for administrative convenience at any time prior to the taking of testimony at a hearing. Administrative convenience shall include, but not be limited to, the following circumstances:

[(1) commission] 1. *Commission* personnel have been unable to locate the complainant after diligent efforts to do so;

[(2) the] 2. *The* complainant has repeatedly failed to appear at mutually agreed upon appointments with commission personnel or is unwilling to meet with commission personnel, provide requested documentation, or to attend a hearing;

[(3) the] 3. *The* complainant has repeatedly engaged in conduct which is disruptive to the orderly functioning of the commission;

[(4) the] 4. *The* complainant is unwilling to accept a reasonable proposed conciliation agreement;

[(5) prosecution] 5. *Prosecution* of the complaint will not serve the public interest; and

[(6) the] 6. *The* complainant requests such dismissal, [one hundred eighty] 180 days have elapsed since the filing of the complaint with the commission and the commission finds (a) that the complaint has not been actively investigated, and (b) that the respondent will not be unduly prejudiced thereby.

d. If after investigation the commission determines that probable cause does not exist to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title, the commission shall dismiss the complaint as to such respondent.

f. The complainant or respondent may, within [thirty] 30 days of such service, and in accordance with the rules of the commission, apply to the chairperson for review of any dismissal pursuant to this section. Upon such application, the chairperson shall review such action and issue an order affirming, reversing or modifying such determination or remanding the matter for further investigation and action. A copy of such order shall be served upon the complainant, respondent and any necessary party.

§ 27. Subdivisions b and c of section 8-114 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, are amended to read as follows:

b. Where the commission has initiated its own investigation or has conducted an investigation in connection with the filing of a complaint pursuant to this chapter, the commission may demand that any person or persons who are the subject of such investigation (i) preserve those records in the possession of such person or persons which are relevant to the determination of whether such person or persons have committed unlawful discriminatory practices *or other acts made unlawful by this chapter or chapter 6 of this title* with respect to activities in the city, and (ii) continue to make and keep the type of records made and kept by such person or persons in the ordinary course of business within the year preceding such demand which are relevant to the determination of whether such person or persons have committed unlawful discriminatory practices *or other acts made unlawful by this chapter or chapter 6 of this title* with respect to activities in the city. A demand made pursuant to this subdivision shall be effective immediately upon its service on the subject of an investigation and shall remain in effect until the termination of all proceedings relating to any complaint filed pursuant to this chapter or civil action commenced pursuant to chapter [four] 4 of this title or if no complaint or civil action is filed or commenced shall expire two years after the date of such service. The commission's demand shall require that such records be made available for inspection by the commission, [and/or] be filed with the commission, *or both*.

c. Any person upon whom a demand has been made pursuant to subdivision b of this section may, pursuant to procedures established by rule of the commission, assert an objection to such demand. Unless the commission orders otherwise, the assertion of an objection shall not stay compliance with the demand. The commission shall make a determination on an objection to a demand within [thirty] 30 days after such an objection is filed with the commission, unless the party filing the objection consents to an extension of time.

§ 28. Subdivisions a and b of section 8-116 of the administrative code of the city of New York, subdivision a of such section as amended by local law number 11 for the year 1993 and subdivision b of such section as added by local law number 39 for the year 1991, are amended to read as follows:

a. Except in connection with commission-initiated complaints which shall not require a determination of probable cause, where the commission determines that probable cause exists to believe that the respondent has engaged or is engaging in an unlawful discriminatory practice or an act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title, the commission shall issue a written notice to complainant and respondent so stating. A determination of probable cause is not a final order of the commission and shall not be administratively or judicially reviewable.

b. If there is a determination of probable cause pursuant to subdivision a of this section in relation to a complaint alleging discrimination in housing accommodations, land or commercial space or an interest therein, or if a commission-initiated complaint relating to discrimination in housing accommodations, land or commercial space or an interest therein has been filed, and the property owner or the owner's duly authorized agent will not agree voluntarily to withhold from the market the subject housing accommodations, land or commercial space or an interest therein for a period of [ten] 10 days from the date of such request the commission may cause to be posted for a period of [ten] 10 days from the date of such request, in a conspicuous place on the land or on the door of such housing accommodations or commercial space, a notice stating that such accommodations, land or commercial space are the subject of a complaint before the commission and that prospective transferees will take such accommodations, land or commercial space at their

peril. Any destruction, defacement, alteration or removal of such notice by the owner or the owner's agents or employees shall be a misdemeanor punishable on conviction thereof by a fine of not more than [one thousand dollars] \$1,000 or by imprisonment for not more than one year or both.

§ 29. Subdivision c of section 8-119 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

c. The administrative law judge may, in [his or her] *the administrative law judge's* discretion, permit any person who has a substantial interest in the complaint to intervene as a party and may require the joinder of necessary parties.

§ 30. Section 8-120 of the administrative code of the city of New York, as amended by local law number 36 for the year 2016, is amended to read as follows:

a. If, upon all the evidence at the hearing, and upon the findings of fact, conclusions of law and relief recommended by an administrative law judge, the commission shall find that a respondent has engaged in any unlawful discriminatory practice or any act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on [such] *the complainant*, respondent, *any necessary party and any complainant who has not intervened* an order requiring such respondent to cease and desist from such unlawful discriminatory practice or acts of discriminatory harassment or violence. Such order shall require the respondent to take such affirmative action as, in the judgment of the commission, will effectuate the purposes of this chapter *or chapter 6 of this title, as applicable*, including, but not limited to:

[(1) hiring] 1. *Hiring*, reinstatement or upgrading of employees;

[(2) the] 2. *The* award of back pay and front pay;

[(3) admission] 3. *Admission* to membership in any respondent labor organization;

[(4) admission] 4. *Admission* to or participation in a program, apprentice training program, on-the-job training program or other occupational training or retraining program;

[(5) the] 5. *The* extension of full, equal and unsegregated accommodations, advantages, facilities and privileges;

[(6) evaluating] 6. *Evaluating* applications for membership in a club that is not distinctly private, without *unlawful* discrimination [based on race, creed, color, age, national origin, disability, marital status, partnership status, gender, sexual orientation or alienage or citizenship status];

[(7) selling] 7. *Selling*, renting or leasing, or approving the sale, rental or lease of housing accommodations, land or commercial space or an interest therein, or the provision of credit with respect thereto, without unlawful discrimination;

[(8) payment] 8. *Payment* of compensatory damages to the person aggrieved by such practice or act;

[(9) submission] 9. *Submission* of reports with respect to the manner of compliance; and

[(10) payment] 10. *Payment* of the complainant's reasonable attorney's fees, expert fees and other costs.

The commission may consider matter-specific factors when determining the complainant's attorney's fee award, including, but not limited to:

(i) [novelty] *Novelty* or difficulty of the issues presented;

(ii) [skill] *Skill* and experience of the complainant's attorney; and

(iii) [the] *The* hourly rate charged by attorneys of similar skill and experience litigating similar cases in New York county.

b. If, upon all the evidence at the hearing, and upon the findings of fact and conclusions of law recommended by the administrative law judge, the commission shall find that a respondent has not engaged in any such unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title, the commission shall state its findings of fact and conclusions of law and shall issue and cause to be served on the complainant, respondent, and any necessary party and on any complainant who has not intervened an order dismissing the complaint as to such respondent.

§ 31. Section 8-122 of the administrative code of the city of New York, as amended by local law number 11 for the year 1993, is amended to read as follows:

§ 8-122 Injunction and temporary restraining order. At any time after the filing of a complaint alleging an unlawful discriminatory practice under this chapter or an act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title, if the commission has reason to believe that the respondent or other person acting in concert with respondent is doing or procuring to be done any act or acts, tending to render ineffectual

relief that could be ordered by the commission after a hearing as provided by section 8-120 [of this chapter], a special proceeding may be commenced in accordance with article [sixty-three] 63 of the civil practice law and rules on behalf of the commission in the supreme court for an order to show cause why the respondent and such other persons who are believed to be acting in concert with respondent should not be enjoined from doing or procuring to be done such acts. The special proceeding may be commenced in any county within the city [of New York] where the alleged unlawful discriminatory practice or act of discriminatory harassment or violence was committed, or where the commission maintains its principal office for the transaction of business, or where any respondent resides or maintains an office for the transaction of business, or where any person aggrieved by the unlawful discriminatory practice or act of discriminatory harassment or violence resides, or, if the complaint alleges an unlawful discriminatory practice under paragraphs (a), (b) or (c) of subdivision [five] 5 of section 8-107 [of this chapter], where the housing accommodation, land or commercial space specified in the complaint is located. The order to show cause may contain a temporary restraining order and shall be served in the manner provided therein. On the return date of the order to show cause, and after affording the commission, the person aggrieved and the respondent and any person alleged to be acting in concert with the respondent an opportunity to be heard, the court may grant appropriate injunctive relief upon such terms and conditions as the court deems proper.

§ 32. Subdivisions b and h of section 8-123 of the administrative code of the city of New York, subdivision b of such section as amended by local law number 11 for the year 1993 and subdivision h of such section as amended by local law number 39 for the year 1991, are amended to read as follows:

b. Such proceeding shall be brought in the supreme court of the state within any county within the city [of New York] wherein the unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title which is the subject of the commission's order occurs or wherein any person required in the order to cease and desist from an unlawful discriminatory practice or act of discriminatory harassment or violence or to take other affirmative action resides or transacts business.

h. A proceeding under this section must be instituted within [thirty] 30 days after the service of the order of the commission.

§ 33. Section 8-124 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

§ 8-124 Civil penalties for violating commission orders. Any person who fails to comply with an order issued by the commission pursuant to section 8-115 or section 8-120 [of this chapter] shall be liable for a civil penalty of not more than [fifty thousand dollars] \$50,000 and an additional civil penalty of not more than [one hundred dollars] \$100 per day for each day that the violation continues.

§ 34. Section 8-126 of the administrative code of the city of New York, subdivision a of such section as amended by local law number 85 for the year 2005 and subdivisions b, c, and d of such section as amended by local law number 11 for the year 1993, is amended to read as follows:

§ 8-126 Civil penalties imposed by commission for unlawful discriminatory practices or acts of discriminatory harassment or violence. a. Except as otherwise provided in subdivision [thirteen] 13 of section 8-107 [of this chapter], in addition to any of the remedies and penalties set forth in subdivision a of section 8-120 [of this chapter], where the commission finds that a person has engaged in an unlawful discriminatory practice, the commission may, to vindicate the public interest, impose a civil penalty of not more than [one hundred and twenty-five thousand dollars] \$125,000. Where the commission finds that an unlawful discriminatory practice was the result of the respondent's willful, wanton or malicious act or where the commission finds that an act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title has occurred, the commission may, to vindicate the public interest, impose a civil penalty of not more than [two hundred and fifty thousand dollars] \$250,000.

b. A respondent that is found liable for an unlawful discriminatory practice or an act of discriminatory harassment or violence, as set forth in chapter [six] 6 of this title, may, in relation to the determination of the appropriate amount of civil penalties to be imposed pursuant to subdivision a of this section, plead and prove any relevant mitigating factor.

c. In addition to any other penalties or sanctions which may be imposed pursuant to any other law, any person who knowingly makes a material false statement in any proceeding conducted, or document or record filed with the commission, or record required to be preserved or made and kept and subject to inspection by the

commission pursuant to this chapter shall be liable for a civil penalty of not more than [ten thousand dollars] \$10,000.

d. An action or proceeding may be commenced in any court of competent jurisdiction on behalf of the commission for the recovery of the civil penalties provided for in this section.

§ 35. Section 8-129 of the administrative code of the city of New York, as amended by local law number 39 for the year 1991, is amended to read as follows:

§ 8-129 Criminal penalties. In addition to any other penalties or sanctions which may be imposed pursuant to this chapter or any other law, any person who shall [wilfully] *willfully* resist, prevent, impede or interfere with the commission or any of its members or representatives in the performance of any duty under this chapter, or shall [wilfully] *willfully* violate an order of the commission issued pursuant to section 8-115 or section 8-120 [of this chapter], shall be guilty of a misdemeanor and be punishable by imprisonment for not more than one year, or by a fine of not more than [ten thousand dollars] \$10,000, or by both; but the procedure for the review of the order shall not be deemed to be such [wilful] *willful* conduct.

§ 36. Section 8-131 of the administrative code of the city of New York, as added by local law number 11 for the year 1993, is amended to read as follows:

§ 8-131 Applicability. The provisions of this chapter which make acts of discriminatory harassment or violence as set forth in chapter [six] 6 of this title subject to the jurisdiction of the commission shall not apply to acts committed by members of the police department in the course of performing their official duties as police officers whether the police officer is on or off duty.

§ 37. Section 8-302 of the administrative code of the city of New York is amended to read as follows:

§ 8-302 Removal of disability or disqualification. Notwithstanding any provision of this code to the contrary, no person shall be denied any license, right, benefit or privilege extended by this code, or suffer any other disability or disqualification thereunder, or be denied the right of employment by the city [of New York], solely because of any arrest, apprehension, detention, indictment or other accusation, arraignment, trial, conviction or any other aspect of conviction or adjudication of a crime had under the jurisdiction of the courts of any state or of the United States, which is founded on an act or acts arising out of any peaceful demonstration or other peaceful activity, the object of which is to resist discriminatory treatment in any place of public accommodation as defined by section [forty] 40 of the civil rights law, or to achieve equal rights for all persons regardless of race, creed, color or national origin.

§ 38. Subdivision a of section 8-402 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

a. Whenever there is reasonable cause to believe that a person or group of persons is engaged in a pattern or practice that results in the denial to any person of the full enjoyment of any right secured by chapter [one] 1 of this title, a civil action on behalf of the commission or the city may be commenced in a court of competent jurisdiction, by filing a complaint setting forth facts pertaining to such pattern or practice and requesting such relief as may be deemed necessary to insure the full enjoyment of the rights described in such chapter, including, but not limited to, injunctive relief, damages, including punitive damages, and such other types of relief as are specified in subdivision a of section 8-120 [of this title]. Nothing in this section shall be construed to prohibit (i) an aggrieved person from filing a complaint pursuant to section 8-109 [of chapter one of this title] or from commencing a civil action pursuant to chapter [five] 5 of this title based upon the same facts pertaining to such a pattern or practice as are alleged in the civil action, or (ii) the commission from filing a commission-initiated complaint pursuant to section 8-109 [of chapter one of this title] alleging a pattern or practice of discrimination, provided that a civil action pursuant to this section shall not have previously been commenced.

§ 39. Section 8-403 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

§ 8-403 Investigation. The corporation counsel may initiate any investigation to ascertain such facts as may be necessary for the commencement of a civil action pursuant to section 8-402 [of this chapter], and in connection therewith shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, to administer oaths and to examine such persons as are deemed necessary.

§ 40. Section 8-404 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

§ 8-404 Civil penalty. In any civil action commenced pursuant to section 8-402 [of this chapter], the trier of fact may, to vindicate the public interest, impose upon any person who is found to have engaged in a pattern or practice that results in the denial to any person of the full enjoyment of any right secured by chapter [one] 1 of this title a civil penalty of not more than [two hundred fifty thousand dollars] \$250,000. In relation to determining the appropriate amount of civil penalties to be imposed pursuant to this section a liable party may plead and prove any relevant mitigating factor. Any civil penalties so recovered pursuant to this chapter shall be paid into the general fund of the city. Nothing in this section shall be construed to preclude the city from recovering damages, including punitive damages, and other relief pursuant to section 8-402 [of this chapter] in addition to civil penalties.

§ 41. Subdivisions b and d of section 8-502 of the administrative code of the city of New York, subdivision b of such section as amended by local law number 85 for the year 2005 and subdivision d of such section as amended by local law number 11 for the year 1993, are amended to read as follows:

b. Notwithstanding any inconsistent provision of subdivision a of this section, where a complaint filed with the city commission on human rights or the state division on human rights is dismissed by the city commission on human rights pursuant to subdivisions a, b or c of section 8-113 [of chapter one of this title], or by the state division of human rights pursuant to subdivision [nine] 9 of section [two hundred ninety-seven] 297 of the executive law either for administrative convenience or on the grounds that such person's election of an administrative remedy is annulled, an aggrieved person shall maintain all rights to commence a civil action pursuant to this chapter as if no such complaint had been filed.

d. A civil action commenced under this section must be commenced within three years after the alleged unlawful discriminatory practice or act of discriminatory harassment or violence as set forth in chapter [six] 6 of this title occurred. Upon the filing of a complaint with the city commission on human rights or the state division of human rights and during the pendency of such complaint and any court proceeding for review of the dismissal of such complaint, such three-year limitations period shall be tolled.

§ 42. Section 8-602 of the administrative code of the city of New York, as amended by local law number 85 for the year 2005, is amended to read as follows:

§ 8-602 Civil action to enjoin discriminatory harassment or violence; equitable remedies. a. Whenever a person interferes by threats, intimidation or coercion or attempts to interfere by threats, intimidation or coercion with the exercise or enjoyment by any person of rights secured by the constitution or laws of the United States, the constitution or laws of this state, or local law of the city and such interference or attempted interference is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, whether children are, may or would be residing with such victim, marital status, partnership status, disability, or alienage or citizenship status as defined in chapter [one] 1 of this title, the corporation counsel, at the request of the city commission on human rights or on [his or her] *the corporation counsel's* own initiative, may bring a civil action on behalf of the city for injunctive and other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the rights secured.

b. An action pursuant to subdivision a *of this section* may be brought in any court of competent jurisdiction.

c. Violation of an order issued pursuant to subdivision a of this section may be punished by a proceeding for contempt brought pursuant to article [nineteen] 19 of the judiciary law and, in addition to any relief thereunder, a civil penalty may be imposed not exceeding [ten thousand dollars] \$10,000 for each day that the violation continues.

§ 43. Section 8-603 of the administrative code of the city of New York, as amended by local law number 85 for the year 2005, is amended to read as follows:

§ 8-603 Discriminatory harassment; civil penalties. a. No person shall by force or threat of force, knowingly injure, intimidate or interfere with, oppress, or threaten any other person in the free exercise or enjoyment of any right or privilege secured to [him or her] *such other person* by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city when such injury, intimidation, interference, oppression or threat is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, partnership status, disability or alienage or citizenship status, as defined in chapter [one] 1 of this title.

b. No person shall knowingly deface, damage or destroy the real or personal property of any person for the purpose of intimidating or interfering with the free exercise or enjoyment of any right or privilege secured to

the other person by the constitution or laws of this state or by the constitution or laws of the United States or by local law of the city when such defacement, damage or destruction of real or personal property is motivated in whole or in part by the victim's actual or perceived race, creed, color, national origin, gender, sexual orientation, age, marital status, partnership status, or whether children are, may be, or would be residing with such victim, disability or alienage or citizenship status, as defined in chapter [one] 1 of this title.

c. Any person who violates subdivision a or b of this section shall be liable for a civil penalty of not more than [one hundred thousand dollars] \$100,000 for each violation, which may be recovered by the corporation counsel in an action or proceeding in any court of competent jurisdiction.

§ 44. Section 8-702 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

§ 8-702 Definitions. [When] *As* used in this chapter, *the following terms have the following meanings:*

(1) The term "discriminatory boycott or blacklist" means any act that is an unlawful discriminatory practice under subdivision eighteen of section 8-107 of chapter one of this title.

(2) *Commission*. The term "commission" means the [New York] city commission on human rights.

(3) *Council*. The term "council" means the council of the city of New York.

Discriminatory boycott or blacklist. The term "discriminatory boycott or blacklist" means any act that is an unlawful discriminatory practice under subdivision 18 of section 8-107.

§ 45. Section 8-703 of the administrative code of the city of New York, as added by local law number 39 for the year 1991, is amended to read as follows:

§ 8-703 Investigative reporting requirements. The following requirements shall apply to all complaints alleging that a discriminatory boycott or blacklist is occurring:

(1) The commission shall begin an investigation within [twenty-four] 24 hours of the filing of a complaint which alleges that a discriminatory boycott or blacklist is occurring.

(2) Within three days after initiating such an investigation, the commission shall file a written report with the mayor. The report shall state:

(a) [the] *The* allegations contained in the complaint;

(b) [whether] *Whether* the commission has reason to believe a discriminatory boycott or blacklist is taking place; and

(c) [steps] *Steps* the commission has taken to resolve the dispute.

(3) If it is stated within the report described in subdivision [two] 2 of this section that the commission has reason to believe that a discriminatory boycott or blacklist has taken place, within [thirty] 30 days after filing such report, the commission shall file a second report with the mayor and the council. This second report shall contain:

(a) [a] *A* brief description of the allegations contained in the complaint;

(b) [a] *A* determination of whether probable cause exists to believe a discriminatory boycott or blacklist is taking place;

(c) [a] *A* recitation of the facts that form the basis of the commission's determination of probable cause; and

(d) [if] *If* the boycott or blacklist is continuing at the date of the report, a description of all actions the commission or other city agency has taken or will undertake to resolve the dispute.

(4) If a finding of probable cause is not contained in the report required by subdivision [three] 3 of this section and the boycott or blacklist continues for more than [twenty] 20 days subsequent to the report's release, then, upon demand of the mayor or council, the commission shall update such report. Report updates shall detail:

(a) [whether] *Whether* or not the commission presently has probable cause to believe a discriminatory boycott or blacklist is taking place; and

(b) [all] *All* new activity the commission or other city agency has taken or will undertake to resolve the dispute.

(5) If the commission determines that the disclosure of any information in a report required by this section may interfere with or compromise a pending investigation or efforts to resolve the dispute by mediation or conciliation, it shall file the report without such information and state in the report the reasons for omitting such information.

§ 46. Chapter 8 of title 8 of the administrative code of the city of New York, as amended by local law number 24 for the year 2009, is re-designated as a new chapter 10 of title 10 of the administrative code of the city of New York and amended to read as follows:

[CHAPTER 8]CHAPTER 10

PREVENTION OF INTERFERENCE WITH REPRODUCTIVE HEALTH SERVICES

[§ 8-801]§ 10-1001 Short title. This [local law]chapter shall be known *and may be cited* as the “access to reproductive health care facilities [act.]”law”.

[§ 8-802]§ 10-1002 Definitions. [For the purposes of]As used in this chapter, *the following terms have the following meanings*: [a. “Reproductive health care facility” shall mean any building, structure or place, or any portion thereof, at which licensed, certified, or otherwise legally authorized persons provide health care services or health care counseling relating to the human reproductive system.]

[b. “Person” shall mean]Person. *The term “person” means* an individual, corporation, not-for-profit organization, partnership, association, group or any other entity.

[c. “Premises of a reproductive health care facility” shall mean]Premises of a reproductive health care facility. *The term “premises of a reproductive health care facility” means* the driveway, entrance, entryway, or exit of a reproductive health care facility and the building in which such facility is located and any parking lot in which the facility has an ownership or leasehold interest.

Reproductive health care facility. The term “reproductive health care facility” means any building, structure or place, or any portion thereof, at which licensed, certified or otherwise legally authorized persons provide health care services or health care counseling relating to the human reproductive system.

[§ 8-803.]§ 10-1003 Prohibition of activities to prevent access to reproductive health care facilities. a. Unlawful conduct. It [shall be]is unlawful for any person:

[(1) to]1. *To knowingly physically obstruct or block another person from entering into or exiting from the premises of a reproductive health care facility by physically striking, shoving, restraining, grabbing, or otherwise subjecting a person to unwanted physical contact, or attempting to do the same;*

[(2) to]2. *To knowingly obstruct or block the premises of a reproductive health care facility, so as to impede access to or from the facility, or to attempt to do the same;*

[(3) to]3. *To follow and harass another person within 15 feet of the premises of a reproductive health care facility;*

[(4) to]4. *To engage in a course of conduct or repeatedly commit acts within 15 feet of the premises of a reproductive health care facility when such behavior places another person in reasonable fear of physical harm, or to attempt to do the same;*

[(5) to]5. *To physically damage a reproductive health care facility so as to interfere with its operation, or to attempt to do the same; or*

[(6) to]6. *To knowingly interfere with the operation of a reproductive health care facility, or to attempt to do the same, by activities [including]that include, but are not limited to, interfering with, or attempting to interfere with (i) medical procedures being performed at such facility or (ii) the delivery of goods to such facility.*

b. Violations. Any person who [shall violate]violates any provision of subdivision a of this section [shall be]is guilty of a misdemeanor punishable by a fine not to exceed [one thousand dollars]\$1,000 or imprisonment not to exceed six months, or both, for a first conviction under this section. For a second and each subsequent conviction under this section, the penalty shall be a fine not to exceed [five thousand dollars]\$5,000 or imprisonment not to exceed one year, or both.

[§ 8-804]§ 10-1004 Civil cause of action. Where there has been a violation of subdivision a of section [8-803]10-1003, any person whose ability to access a reproductive health care facility has been interfered with, and any owner or operator of a reproductive health care facility or owner of a building in which such a facility is located, may bring a civil action in any court of competent jurisdiction for any or all of the following relief:

[1. injunctive]a. *Injunctive relief;*

[2. treble] *b. Treble* the amount of actual damages suffered as a result of such violation, including, where applicable, damages for pain and suffering and emotional distress, or damages in the amount of [five thousand dollars] \$5,000, whichever is greater; and

[3. attorneys'] *c. Attorney's* fees and costs.

[§ 8-805.] § 10-1005 Civil action by city [of New York] to enjoin interference with access to reproductive health care facilities. The corporation counsel may bring a civil action on behalf of the city in any court of competent jurisdiction for injunctive and other appropriate equitable relief in order to prevent or cure a violation of subdivision a of section [8-803] 10-1003.

[§ 8-806.] § 10-1006 Joint and several liability. If it is found, in any action brought pursuant to the provisions of this chapter, that two or more of the named defendants acted in concert pursuant to a common plan or design to violate any provision of subdivision a of section [8-803] 10-1003, such defendants shall be held jointly and severally liable for any fines or penalties imposed or any damages awarded.

[§ 8-807.] § 10-1007 Construction. a. [No provision of this chapter shall be construed or interpreted so as to] *This chapter does not* limit the right of any person or entity to seek other available criminal penalties or civil remedies. The penalties and remedies provided under this chapter [shall be] *are* cumulative and *are not* exclusive.

b. [No provision of this chapter shall be construed or interpreted so as to] *This chapter does not* prohibit expression protected by the [First Amendment] *first amendment* of the [Constitution] *constitution* of the United States or section [eight] 8 of article [one] 1 of the [Constitution] *constitution* of the [State] *state* of New York.

c. [No provision of this chapter shall be construed or interpreted so as to] *This chapter does not* limit the lawful exercise of any authority vested in the owner or operator of [the] *a* reproductive health care facility, the owner of the premises in which such *a* facility is located, or a law enforcement officer of [New York City] *the city, the state of New York* [State] or the United States acting within the scope of [his or her] *such person's* official duties.

§ 47. Chapter 9 of title 8 of the administrative code of the city of New York, as added by local law number 73 for the year 2000, is re-designated as a new chapter 11 of title 10 of the administrative code of the city of New York and amended to read as follows:

[CHAPTER 9] CHAPTER 11

ACTIONS BY VICTIMS OF GENDER-MOTIVATED VIOLENCE

[§ 8-901.] § 10-1101 Short [Title] *title*. This [local law] *chapter* shall be known *and may be cited* as the "Victims of Gender-Motivated Violence Protection [Act.] *Law*".

[§ 8-902.] § 10-1102 Declaration of [Legislative Findings and Intent] *legislative findings and intent*. Gender-motivated violence inflicts serious physical, psychological, emotional and economic harm on its victims. Congressional findings have documented that gender-motivated violence is widespread throughout the United States, representing the leading cause of injuries to women ages 15 to 44. Further statistics have shown that three out of four women will be the victim of a violent crime sometime during their lives, and as many as [four million] 4,000,000 women a year are victims of domestic violence. Senate hearings, various task forces and the United States [Department] *department* of [Justice] *justice* have concluded that victims of gender-motivated violence frequently face a climate of condescension, indifference and hostility in the court system and have documented the legal system's hostility towards sexual assault and domestic violence claims. Recognizing this widespread problem, [Congress] *congress* in 1994 provided victims of gender-motivated violence with a cause of action in federal court through the [Violence Against Women Act] *violence against women act* (VAWA) ([42 USC § 13981] *section 13981 of title 42 of the United States code*). In a May 15, 2000, decision, the United States [Supreme Court] *supreme court* held that the [Constitution] *constitution* provided no basis for a federal cause of action by victims of gender-motivated violence against [their] *perpetrators of offenses committed against them*, either under the [Commerce Clause or the Equal Protection Clause of the Fourteenth Amendment] *commerce clause or the equal protection clause of the fourteenth amendment*. In so ruling, the [Court] *court* held that it could "think of no better example of the police power, which the Founders denied the National Government and reposed in the States, than the suppression of violent crime and vindication of its victims."

In light of the void left by the [Supreme Court's] *supreme court's* decision, this [Council] *council* finds that victims of gender-motivated violence should have a private right of action against [their] perpetrators of *offenses committed against them* under the [Administrative Code] *administrative code*. This private right of action aims to resolve the difficulty that victims face in seeking court remedies by providing an officially sanctioned and legitimate cause of action for seeking redress for injuries resulting from gender-motivated violence.

[§ 8-903]§ 10-1103 Definitions. [For purposes of] *As used in this chapter, the following terms have the following meanings:*

[a. "Crime of violence"] *Crime of violence. The term "crime of violence" means an act or series of acts that would constitute a misdemeanor or felony against the person as defined in state or federal law or that would constitute a misdemeanor or felony against property as defined in state or federal law if the conduct presents a serious risk of physical injury to another, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction.*

[b. "Crime of violence motivated by gender"] *Crime of violence motivated by gender. The term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender, and due, at least in part, to an animus based on the victim's gender.*

[§ 8-904]§ 10-1104 Civil [Cause of Action] *cause of action*. Except as otherwise provided by law, any person claiming to be injured by an individual who commits a crime of violence motivated by gender [as defined in section 8-903 of this chapter, shall have] *has* a cause of action against such individual in any court of competent jurisdiction for any or all of the following relief:

- [1. compensatory] *a. Compensatory and punitive damages;*
- [2. Injunctive] *b. Injunctive and declaratory relief;*
- [3. attorneys'] *c. Attorney's fees and costs; and*
- [4. such] *d. Such other relief as a court may deem appropriate.*

[§ 8-905]§ 10-1105 Limitations. a. A civil action under this chapter [must] *shall* be commenced within seven years after the alleged crime of violence motivated by gender [as defined in section 8-903 of this chapter] occurred. If, however, due to injury or disability resulting from an act or acts giving rise to a cause of action under this chapter, or due to infancy as defined in the civil procedure law and rules, a person entitled to commence an action under this chapter is unable to do so at the time such cause of action accrues, then the time within which the action must be commenced shall be extended to seven years after the inability to commence the action ceases.

b. Except as otherwise permitted by law, nothing in this chapter entitles a person to a cause of action for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by preponderance of the evidence, to be *a crime of violence* motivated by gender [as defined in section 8-903].

c. Nothing in this section requires a prior criminal complaint, prosecution or conviction to establish the elements of a cause of action under this chapter.

[§ 8-906]§ 10-1106 Burden of [Proof] *proof*. Conviction of a crime arising out of the same transaction, occurrence or event giving rise to a cause of action under this chapter [shall be considered] *is* conclusive proof of the underlying facts of that crime for purposes of an action brought under this chapter. That such crime was a crime of violence motivated by gender must be proved by a preponderance of the evidence.

[§ 8-907]§ 10-1107 Severability. If any section, subsection, sentence, clause, phrase or other portion of this [local law] *chapter* 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 remaining portions shall continue in full force and effect.

§ 48. Chapter 10 of title 8 of the administrative code of the city of New York, as added by local law number 73 for the year 2003, is re-designated as a new subchapter 1 of chapter 1 of title 21 of the administrative code of the city of New York and amended to read as follows:

[CHAPTER 10] *SUBCHAPTER 1*

EQUAL ACCESS TO HUMAN SERVICES

[§ 8-1001]§ 21-189 Short title. This chapter shall be known and may be cited as the “Equal Access to Human Services [Act]Law of 2003[.]”.

[§ 8-1002]§ 21-190 Definitions. For purposes of this chapter, the following terms have the following meanings:

[a. “Agency”]Agency. *The term “agency” means the human resources administration/department of social services, including any part, subdivision, field office or satellite facility thereof.*[b. Agency office. “Agency office” means a job center, food stamp office, medical assistance program office, or other part, subdivision, field office or satellite facility of the agency or agency contractor office that performs a covered function.]

[c. “Agency]Agency contractor. *The term “agency contractor” means any contractor that enters into a covered contract with the agency.*

Agency office. The term “agency office” means a job center, food stamp office, medical assistance program office or other part, subdivision, field office or satellite facility of the agency or agency contractor office that performs a covered function.

[d. “Agency]Agency personnel. *The term “agency personnel” means bilingual personnel or interpreter personnel who are employees of the agency.*

[e. “Bilingual]Bilingual personnel. *The term “bilingual personnel” means agency, agency contractor, or other contractor employees, not including work experience program participants, who provide language assistance services in addition to other duties.*

[f. “Contract”]Contract. *The term “contract” means any written agreement, purchase order or instrument whereby the city is committed to expend or does expend funds in return for work, labor or services.*

[g. “Contractor”]Contractor. *The term “contractor” means any individual, sole proprietorship, partnership, joint venture or corporation or other form of doing business that enters into a contract.*

[h. “Covered]Covered contract. *The term “covered contract” means a contract between the agency and a contractor to perform a covered function.*

[i. “Covered]Covered function. *The term “covered function” means any of the following functions:*

1. Benefits or services offered or provided at agency offices;
2. Benefits or services provided by agency contractors to provide employment services in connection with participation of individuals engaged in activities required by sections 335 through 336-c of the social services law;

3. Home care services; and

4. Determinations regarding eligibility for subsidized child care.

[j. “Covered]Covered language. *The term “covered language” means Arabic, Chinese, Haitian Creole, Korean, Russian or Spanish.*

[k. “Document”]Document. *The term “document” means the following forms and notices developed by the agency:*

[i.]1. Application forms and corresponding instructional materials;

[ii.]2. Notices that require a response from the participant;

[iii.]3. Notices that concern the denial, termination, reduction, increase or issuance of a benefit or service;

[iv.]4. Notices regarding the rights of participants to a conference and fair hearing; and

[v.]5. Notices describing regulation changes that affect benefits.

[l. “Interpretation]Interpretation services. *The term interpretation services” means oral, contemporaneous interpretation of oral communications.*

[m. “Interpreter]Interpreter personnel. *The term “interpreter personnel” means agency, agency contractor, or other contractor employees, not including work experience program participants, whose sole responsibility is to provide language assistance services.*

[n. “Language]Language assistance services. *The term “language assistance services” means interpretation services [and/or]or translation services provided by bilingual personnel or interpreter personnel to a limited English proficient individual in [his/her]such individual’s primary language to ensure [their]such individual’s ability to communicate effectively with agency or agency contractor personnel.*

[o.]Limited English proficient individual. *The term “[Limited English proficient individual]limited English proficient individual” means an individual who identifies as being, or is evidently, unable to communicate meaningfully with agency or agency contractor personnel because English is not [his/her]such individual’s primary language.*

[p.] *Other covered agency.* The term “[Other covered agency] *other covered agency*” means the administration for children’s services[;], the department of homeless services[;], the department of health and mental hygiene[;], and all functions served by the agency that are not covered functions, including any part, subdivision, field office or satellite facility thereof.

[q. “Primary] *Primary language.* The term “*primary language*” means the language in which a limited English proficient individual chooses to communicate with others.

[r. “Translation] *Translation services.* The term “*translation services*” means oral explanation or written translation of documents.

[§ 8-1003]§ 21-191 Language assistance services. a. The agency and all agency contractors shall provide free language assistance services as required by this chapter to limited English proficient individuals.

b. When a limited English proficient individual seeks or receives benefits or services from an agency office or agency contractor, the agency office or agency contractor shall provide prompt language assistance services in all interactions with that individual, whether the interaction is by telephone or in person. The agency office or agency contractor shall meet its obligation to provide prompt language assistance services for purposes of this subdivision by ensuring that limited English proficient individuals do not have to wait unreasonably longer to receive assistance than individuals who do not require language assistance services.

c. Where an application or form requires completion in English by a limited English proficient individual for submission to a state or federal authority, the agency or agency contractor shall provide oral translation of such application or form as well as certification by the limited English proficient individual that the form was translated and completed by an interpreter.

d. The agency shall make all reasonable efforts to provide language assistance services in person by bilingual personnel.

[§ 8-1004]§ 21-192 Translation of documents. The agency shall translate all documents into every covered language as of [the first day of the sixtieth month after the effective date of the local law that added this chapter] *February 1, 2008*.

[§ 8-1005]§ 21-193 Notices. a. Upon initial contact, whether by telephone or in person, with an individual seeking benefits [and/or] *or* services offered by the agency or an agency contractor, the agency or agency contractor shall determine the primary language of such individual. If it is determined that such individual’s primary language is not English, the agency or agency contractor shall inform the individual in [his/her] *such individual’s* primary language of the right to free language assistance services.

b. The agency shall provide in all application and recertification packages an [8 1/2 x] *eight and one-half inch* by 11 inch or larger notice advising participants that free language assistance services are available at its offices and where to go if they would like an interpreter. This notice shall appear in all covered languages.

c. The agency and each agency contractor shall post conspicuous signs in every covered language at all agency offices and agency contractor offices informing limited English proficient individuals of the availability of free language assistance services.

d. Other covered agencies. Upon initial contact, whether by telephone or in person, with an individual seeking benefits [and/or] *or* services offered by another covered agency, the other covered agency shall determine the primary language of such individual. If it is determined that such individual’s primary language is not English, the other covered agency shall inform the individual in [his/her] *such individual’s* primary language of available language assistance services.

[§ 8-1006]§ 21-194 Screening and training. The agency and each agency contractor shall screen bilingual personnel and interpreter personnel for their ability to provide language assistance services. The agency and each agency contractor shall provide annual training for bilingual personnel and interpreter personnel and ensure that they are providing appropriate language assistance services.

[§ 8-1007]§ 21-195 Recordkeeping. a. *Agency and agency contractors.* No later than [the first day of the sixtieth month after the effective date of the local law that added this chapter] *February 1, 2008*, the agency and each agency contractor shall maintain records of the primary language of every individual who seeks or receives benefits or services from the agency or agency contractor. At a minimum, the agency and each agency contractor shall maintain specific records of the following:

1. The number of limited English proficient individuals served, disaggregated by agency, agency contractor or contractor, agency office, type of language assistance required and primary language;

2. The number of bilingual personnel and the number of interpreter personnel employed by the agency, disaggregated by language translated or interpreted by such personnel;

3. Whether primary language determinations are recorded properly; and

4. Whether documents are translated accurately and disseminated properly.

b. Other covered agencies. No later than [the first day of the sixtieth month after the effective date of the local law that added this chapter]*February 1, 2008*, every other covered agency shall maintain records of the primary language of every individual who seeks or receives ongoing benefits or services. At a minimum, the other covered agency shall maintain specific records of the following:

1. The number of limited English proficient individuals served, disaggregated by type of language assistance required and primary language;

2. The number of bilingual personnel and the number of interpreter personnel employed by the other covered agency, disaggregated by language translated by such personnel;

3. Whether primary language determinations are recorded properly; and

4. Whether documents are translated accurately and disseminated properly.

[§ 8-1008]§ 21-196 Implementation. a. *Agency.* The agency shall phase in language assistance services for covered functions as follows:

1. As of [the first day of the twenty-fourth month after the effective date of the local law that added this chapter]*February 1, 2005*, no less than 20[%] *percent* of covered functions provided by agency offices[.];

2. As of [the first day of the forty-eighth month after the effective date of the local law that added this chapter]*February 1, 2007*, no less than 40[%] *percent* of covered functions provided by agency offices[.]; *and*

3. As of [the first day of the sixtieth month after the effective date of the local law that added this chapter]*February 1, 2008*, 100[%] *percent* of covered functions provided by agency offices.

b. [Contractors]*Agency contractors.*

1. In all covered contracts entered into or renewed after January 1, 2005, the contractor shall certify that it shall make available language assistance services and maintain and provide access to records as required by this chapter.

2. Every covered contract must contain a provision in which the contractor acknowledges that the following responsibilities constitute material terms of the contract:

(a) [to]*To* provide language assistance services as required by this chapter;

(b) [to]*To* comply with the recordkeeping requirements set forth in this chapter;

(c) [to]*To* provide the city access to its records for the purpose of audits or investigations to ascertain compliance with the provisions of this section, to the extent permitted by law; and

(d) [to]*To* provide evidence to the city that the contractor is in compliance with the provisions of this section, upon request.

3. If an agency contractor enters into a subcontract agreement to provide any benefits or services under a covered contract, that subcontract will be considered a covered contract for purposes of this section and the provisions of this section will bind the subcontractor. Each contractor is required to include the contract provision set forth in paragraph 2 of this subdivision in any such subcontract agreement.

c. Implementation plans. [Within eight months of the effective date of the local law that added this chapter]*On or before October 1, 2003*, the agency and each other covered agency shall develop an implementation plan that describes how and when the agency or other covered agency will meet the requirements imposed by this chapter. The agency and each other covered agency shall publish a copy of its implementation plan.

d. Implementation updates and annual reports. No later than 90 days after the end of each calendar year after the publication of the implementation plan and before implementation is complete, the agency and each other covered agency shall publish an implementation update. The implementation update shall describe steps taken over the prior year to implement the requirements of this chapter and shall describe any changes in the agency or other covered agency's plan for implementing the remaining requirements of the local law that added this chapter before the date set forth in subdivision a of this section. The implementation update for every year after 2004 shall include a report on the number of limited English proficient people served, disaggregated by language and by agency office or other covered agency office. Not later than 90 days after the end of each calendar year beginning with 2008, the agency and each other covered agency shall publish an annual report on language assistance services. At a minimum, this annual report of the agency, each agency

contractor and each other covered agency shall set forth the information required to be maintained by this chapter.

[§ 8-1009]§ 21-197 Rules. The agency and each other covered agency shall promulgate such rules as are necessary for the purposes of implementing and carrying out the provisions of this chapter.

[§ 8-1010]§ 21-198 Miscellaneous. a. Nothing in this chapter precludes the agency or an agency contractor from providing language assistance services beyond those required by this chapter.

b. Nothing in this chapter precludes a limited English proficient individual from having an adult volunteer, relative, spouse or domestic partner accompany [him/her]*such limited English proficient individual* to provide language assistance services with the agency office or agency contractor, provided that the agency office or agency contractor informs a limited English proficient individual of the availability of free language assistance services and the agency remains responsible for ensuring effective communication.

c. This chapter does not apply to any contract with an agency contractor entered into or renewed [prior to]*before* January 1, 2005.

[§ 8-1011]§ 21-199 Severability. If any section, subsection, sentence, clause, phrase or other portion of this [local law]*chapter* 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]*chapter*, which shall continue in full force and effect.

§ 49. Chapter 11 of title 8 of the administrative code of the city of New York is re-designated as a new chapter 19 of title 21-A of the administrative code of the city of New York and is amended to read as follows:

[CHAPTER 11]*CHAPTER 19*

REPORTS ON DISCIPLINE AND CERTAIN EMERGENCY TRANSPORTS OF STUDENTS

[§8-1101. Definitions; confidentiality requirements. a.]§ 21-982 *Definitions*. For purposes of this chapter, the following terms [shall] have the following meanings:

Chancellor. The term “chancellor” means the chancellor of the city school district of the city [of New York], or the chancellor’s designee.

Data. The term “data” means final versions of statistical or factual information in alphanumeric form that can be digitally transmitted or processed.

Department contact. The term “department contact” means an incident that occurs within a New York city public school, on school grounds, during school-related events or while taking public school transportation, for which the New York city police department is contacted.

EMS transports. The term “EMS transports” means transports performed by emergency medical services, whether provided by the fire department or another authorized ambulance service, in which a student is taken from a New York city public school to a hospital.

Homeless status. The term “homeless status” means the circumstance in which a student lacks a fixed, regular and adequate nighttime residence, as determined in accordance with applicable chancellor’s regulations.

Teacher removal. The term “teacher removal” means the removal from class, including at least one class period and for up to four complete school days, of a student in kindergarten through grade twelve whose conduct is substantially disruptive of the educational process or substantially interferes with a teacher’s authority over the classroom, with notice and an opportunity to be heard pursuant to applicable chancellor’s regulations.

[b.]§ 21-983 *Confidentiality requirements*. No information that is otherwise required to be reported pursuant to this chapter shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information, including but not limited to restrictions with respect to personally identifiable information in education records set forth in [20 U.S.C. § 1232g] *section 1232g of title 20 of the United States code*, or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If (i) the total number of students or incidents within a non-disaggregated category contains from one through five students or incidents, (ii) the total number of students or incidents within a disaggregated category, or reported pursuant to paragraph four of subdivision a

of section [8-1102 of this chapter]21-984, contains from zero through five students or incidents; or (iii) the total number of students or incidents within a category, whether or not disaggregated, contains an amount that would allow another category, whether or not disaggregated, that contains from one through five students or incidents to be deduced, then the number of students or incidents shall be replaced with a symbol or shall be subject to some other form of data suppression.

[§8-1102.]§ 21-984 Annual report on student discipline. The chancellor shall submit to the city council and post to the [department of education's]department's website by October [31st]31 of each year an annual report, based on data from the preceding school year, on the discipline of students.

a. The data in this report shall be disaggregated by school and shall show the following:

1. The number of teacher removals, which shall additionally be disaggregated by infraction code and number of days removed;
2. The number of principal's suspensions, which shall additionally be disaggregated by infraction code and length of suspension;
3. The number of superintendent's suspensions, which shall additionally be disaggregated by infraction code and length of suspension;
4. The number of students subjected more than once to a teacher removal, principal's suspension, superintendent's suspension, or any combination thereof;
5. The number of students subjected to an expulsion; and
6. The number of incidents involving department contacts that also resulted in the suspension of the students who were the subjects of the department contacts.

b. The data provided pursuant to subdivision a shall be disaggregated by race/ethnicity, gender, grade, year of birth, whether the individual is receiving special education services, whether the individual is an English language learner and homeless status. The report shall include school district and citywide total numbers for each disaggregated category.

c. The report shall also include:

1. The citywide total number of transfers that were initiated during the superintendent's suspension process or during the period of any resulting superintendent's suspension, disaggregated by involuntary and voluntary transfers; and
2. The annual citywide percentage change in suspensions, disaggregated by school district.

[§8-1103.]§ 21-985 Biannual citywide report on suspensions. The chancellor shall submit to the council and post to the [department of education's]department's website by October [31st]31 and March [31st]31 of each year a report on the discipline of students citywide, based on data from the first six months of the current calendar year and the second six months of the preceding calendar year respectively. Such report shall include the number of suspensions citywide for each month, disaggregated by superintendent's and principal's suspensions.

[§8-1104.]§ 21-986 Citywide report on emergency medical services student transports.

a. The chancellor shall submit to the council and post to the [department of education's]department's website by October [31st]31 and March [31st]31 of each year a citywide report on the total number of EMS transports and the number of EMS transports performed because of a student's psychological/emotional condition. The October report shall include EMS transports from the first six months of the current calendar year and the March report shall include EMS transports from the second six months of the preceding calendar year. Each report shall be disaggregated by school district and by month.

b. The chancellor shall submit to the council and post to the [department of education's]department's website by October [31st]31 of each year a citywide report on EMS transports during the twelve-month period ending on June [30th]30 of the same year. Each report shall be disaggregated by school and by race/ethnicity, year of birth and whether the individual is receiving special education services.

§ 50. Subdivision j of section 20-556 of the administrative code of the city of New York, as added by local law number 80 for the year 2016, is amended to read as follows:

j. No ticket seller shall use equipment, stands, vehicles, racks, or displays in connection with vending in a public space except: (1) as necessary to accommodate a disability, as that term is defined [by subdivision 16 of] in section 8-102; or (2) equipment that is at all times carried on the person of the ticket seller.

§ 51. Section 20-921 of the administrative code of the city of New York, as amended by local law number 199 for the year 2017, is amended to read as follows:

§ 20-921 Confidentiality and nondisclosure. a. An employer may not require the disclosure of details relating to an employee's or his or her family member's medical condition or require the disclosure of details relating to an employee's or his or her family member's status as a victim of family offenses, sexual offenses, stalking, or human trafficking as a condition of providing safe/sick time under this chapter. Health information about an employee or an employee's family member, and information concerning an employee's or his or her family member's status or perceived status as a victim of family offenses, sexual offenses, stalking or human trafficking obtained solely for the purposes of utilizing safe/sick time pursuant to this chapter, shall be treated as confidential and shall not be disclosed except by the affected employee, with the written permission of the affected employee or as required by law. Provided, however, that nothing in this section shall preclude an employer from considering information provided in connection with a request for safe time in connection with a request for reasonable accommodation pursuant to [section 8-107.1 of the administrative code] *subdivision 27 of section 8-107*.

§ 52. This local law takes effect 270 days after it becomes law, except that section one of this local law takes effect immediately.

DANIEL DROMM, *Acting Chairperson*; MATHIEU EUGENE, ANDY L. KING, RAFAEL SALAMANCA, Jr.: Committee on Civil Rights, December 18, 2017.

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 Civil Service and Labor

Report for Int. No. 1399-A

Report of the Committee on Civil Service and Labor in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to protecting employees who seek temporary changes to work schedules for personal events and certain other schedule changes.

The Committee on Civil Service and Labor, to which the annexed proposed amended local law was referred on December 6, 2016 (Minutes, page 4110), respectfully

REPORTS:

INTRODUCTION

On December 18, 2017, the Committee on Civil Service and Labor, chaired by Council Member I. Daneek Miller, will hold a hearing on Proposed Int. No. 1399-A, a Local Law to amend the administrative code of the city of New York, in relation to protecting employees who seek temporary changes to work schedules for personal events and certain other schedule changes, introduced by Council Member Deborah L. Rose. On March 3, 2017, the Committee on Civil Service and Labor held a hearing on Int. No. 1399, a Local Law to amend the administrative code of the city of New York, in relation to establishing a right for employees to seek flexible work arrangements and to establish a "right to receive" flexible work arrangements in certain emergency situations, introduced by Council Member Deborah L. Rose. Witnesses invited to testify included representatives from the Department of Citywide Administrative Services, Department of Consumer Affairs, New York City Office of Labor Relations, worker rights advocates, unions, business groups, chambers of commerce and fast food restaurants.

BACKGROUND

Proposed Int. No. 1399-A would require employers to accommodate a temporary change to the work schedule two times within a calendar year relating to an employee’s “personal event.” The bill would allow workers to request such changes without fear of retaliation, and would require that employers respond immediately to an employee’s request and follow up with a written request within 14 days, unless the employee failed to put the request in writing. Each schedule change may not exceed one business day; however, an employer may permit an employee to use two business days for one request. A “personal event” would include needing to provide care to a relative or care recipient; needing attend a legal proceeding or hearing for subsistence benefits to which the employee, a family member or an employee’s care recipient is a party; or any event that qualifies for the use of safe time or sick time pursuant to the city’s Earned Safe and Sick Time Act.¹

“Safe time” includes the need to take leave from work due to an employee or the family member of an employee having been the victim of a family offense matter, human trafficking, a sexual offense, stalking; to enroll a child in a new school, or to obtain social services or legal help due to having been the victim of such an event.² “Sick time” includes the need to take leave from work due to an employee’s health condition, a family member’s health condition, a public health emergency causing the closure of the employee’s place of business, or a public health emergency causing the closure of the school or childcare provider for a child for whom the employee is responsible.³

Receiving a schedule change in certain circumstances would allow New Yorkers with certain emergencies to get the help they need (or provide help to a family member) without fear of risking their jobs. Such temporary changes to a work schedule do not have to lead to an increase or reduction in employee hours worked—for example, an employee could start working early on a day when the employee needs to leave work earlier than normal.

Other requests for temporary changes to a work schedule that do not relate to a personal event as defined by the bill are permissible—and indeed would be protected from retaliation by the bill—but the employer would not be required to grant such requests.

The ability to ask for a schedule change due to a personal event or any other reason without fear of retaliation will give New Yorkers the confidence to ask for accommodations in the workplace. By allowing for the possibility of a couple days a year of flexibility in employees’ work schedules for a few specified exemptions, this bill would help workers meet their caregiving and legal responsibilities. The bill also would help to assist employees who may be facing last-minute situations involving acute health emergencies or who need resources after having been the victim of a crime (especially those relating to domestic violence), as well as other situations that may occur without adequate notice.⁴

The bill also would protect from retaliation those workers who request other changes to their work schedules outside of the two allotted changes that this bill would provide, though the bill would not require employers to grant those requests. Most employees will require a flexible work schedule at some point in their careers, and technology is making this flexibility increasingly more feasible.⁵ A flexible work schedule can help employees balance their work and personal obligations, whether they are caregivers or seeking accommodations for an illness, disability, or other personal matter.⁶ This bill would take a small but important step toward accommodating those needs.

Ensuring that workers have the ability to ask for flexibility in the workplace is a concern because, among other demands, many New Yorkers serve as caregivers to children or elderly relatives. Parents who must care for special-needs children or an elderly relative can especially benefit from flexible scheduling.⁷ According to a 2015 study conducted by the National Alliance for Caregiving and the AARP, approximately 43.5 million

¹ New York City, N.Y., Code § 20-914.

² New York City, N.Y., Code § 20-912(a)

³ *Id.*

⁴ *See id.*

⁵ Holly O’Mahony, *Why now’s the time to embrace flexible working*, THE GUARDIAN (Jan. 31, 2017), <https://jobs.theguardian.com/article/why-now-s-the-time-to-embrace-flexible-working/>.

⁶⁶ *See Id.*

⁷ *See Id.*

adults in the United States had provided unpaid caregiving duties for a child or an adult.⁸ In the same study, 6 out of 10 caregivers reported that their caregiving duties affected their employment (some reported having to work reduced hours, or “receiving a warning about performance or attendance”).⁹ Nearly a quarter of caregivers are millennials.¹⁰ Around one-third of caregivers work full-time, approximately a quarter of work part-time,¹¹ And one-third of caregivers provide care more than 21 hours per week.¹²

In addition, workers may face an acute legal situation that requires attention, such as the need for a temporary order of protection or an emergency custody hearing regarding a family member. Many employees face domestic violence at home: a third of women and a quarter of men have been victims of violence perpetrated by an intimate partner in their lifetime.¹³ This has collateral effects on the victims; between 21-61% of victims of intimate partner violence end up losing their jobs because of reasons that are related to the abuse.¹⁴ This bill would allow victims to not be penalized in seeking safety because it would allow them to make a temporary change to their schedules to meet with an attorney or obtain services from a domestic violence shelter or rape crisis center.

This bill would also help those who are economically struggling to maintain their eligibility for social service benefits. Applying for subsistence benefits may require that an employee undergo interviews¹⁵ that can be difficult for employees to schedule and attend without some schedule flexibility. In certain jurisdictions, employees who miss these interviews can be sanctioned and can have their pending cases closed.¹⁶ Proposed Int. No. 1399-A would make it easier for employees to request a change in their work schedules in order to accommodate these other responsibilities.

This legislation is similar to San Francisco’s Family Friendly Workplace Ordinance, which gives employees the right to request a flexible or predictable work schedule without retaliation.¹⁷

SIGNIFICANT AMENDMENTS AND INTENT

Significant amendments were made between Int. No. 1399 and Proposed Int. No. 1399-A, including language to clarify the relationship between Proposed Int. No. 1399-A and the Earned Safe and Sick Time Act.¹⁸ In addition, the term “personal event” was added to the bill and drafted to include the need for a caregiver to provide care to a child or care recipient, to attend a legal proceeding or hearing to which the employee, a family member, or an employee’s care recipient is a party, or any circumstance that would qualify for use of safe time or sick time in section 20-914 of the Administrative Code.

Proposed Int. No. 1399-A does not require an employer to provide a work schedule in writing with the number of hours, times and locations that an employee is expected to work (“notice of schedule”) as in the original version of Int. No. 1399.

⁸ *Executive Summary – Caregiving in the U.S.*, AARP AND THE NATIONAL ALLIANCE FOR CAREGIVING (June 2015), http://www.caregiving.org/wp-content/uploads/2015/05/2015_CaregivingintheUS_Executive-Summary-June-4_WEB.pdf at 9.

⁹ *Id.* at 22.

¹⁰ Dhruv Khullar, *Who Will Care for the Caregivers?*, THE NEW YORK TIMES (Jan. 19, 2017), <https://www.nytimes.com/2017/01/19/upshot/who-will-care-for-the-caregivers.html>

¹¹ *Id.*

¹² *Id.*

¹³ *National Intimate Partner and Sexual Violence Survey*, NATIONAL CENTER FOR INJURY PREVENTION AND CONTROL – CDC (2010), https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.

¹⁴ Rothman, E. F., Hathaway, J., Stidsen, A., & de Vries, H. F., How employment helps female victims of intimate partner violence: A qualitative study. *JOURNAL OF OCCUPATIONAL HEALTH PSYCHOLOGY*, (2007) 12(2), 136-143. <http://dx.doi.org/10.1037/1076-8998.12.2.136>

¹⁵ Ben-Ishai, L. (2015), *Volatile job schedules and access to public benefits*. Washington, DC: Center for Law and Social Policy. Online: <http://www.clasp.org/resources-and-publications/publication-1/2015.09.16-Scheduling-Volatility-and-Benefits-FINAL.pdf> at 12.

¹⁶ *See Id.*

¹⁷ *Family Friendly Workplace Ordinance (FFWO)*, OFFICE OF LABOR STANDARDS ENFORCEMENT (last accessed Feb. 17 2017), <http://sfgov.org/olse/family-friendly-workplace-ordinance-ffwo>; <http://sfgov.org/olse/sites/default/files/FileCenter/Documents/12080-FFWO%20FAQs%20Final%200725.pdf>.

¹⁸ “A Local Law to amend the administrative code of the city of New York in relation to safe time for victims of family offense matters, sexual offenses, stalking and human trafficking, and their family members,” Int 1313-2016 – Version A, The New York City Council (Nov. 6, 2017), <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2867849&GUID=DCC83D1C-0D6A-4E38-9FEB-6974CA947D6F>.

In Proposed Int. No. 1399-A, the number of instances of a “personal event” that an employer must grant an employee has been reduced from four times a year (with one business day per request) to two times a year (not to exceed two business days). The interactive process has also been removed and instead an employer must respond in writing within 14 days of a request and only if the employee has submitted a request in writing.

Proposed Int. No. 1399-A’s eligibility criteria for the usage of a required temporary schedule change (relating to a “personal event”) has been amended from the original provisions for a required schedule change in Int. No. 1399, relating to a “caregiving emergency,” a “personal health emergency” or the employee or a family member having been the victim of certain crimes. Proposed Int. No. 1399-A applies to employees that have been employed by an employer for at least 120 days and who work at least 80 hours in the city. The bill does not apply to certain employees of an employer in the entertainment industry.

BILL SUMMARY

Proposed Int. No. 1399-A would make it an unlawful employment practice to retaliate against employees who request certain schedule changes. Proposed Int. No. 1399-A would also require an employer to allow for temporary change in one’s work schedule (a “personal event”) due to a caregiving emergency, the need to attend certain a legal proceeding or hearing for subsistence benefits to which the employee, a family member or the employee’s care recipient is a party or due to a circumstance that would allow for the usage of safe time or sick time.

Section one of the legislation would amend the administrative code of the city of New York by adding a new subchapter 6 to chapter 12 of title 20. Section 20-1261 would provide definitions for the new subchapter 6, including:

“Business day” would mean any day when an employer requires employees to work.

“Caregiver” would mean a person who provides direct and ongoing care for a minor child or a care recipient.

“Care recipient” would mean a person with a disability who (i) is a family member or a person who resides in the caregiver's household; and (ii) relies on the caregiver for medical care or to meet the needs of daily living.

“Minor child” would mean a child under the age of 18.

“Personal event” would mean (i) the need for a caregiver to provide care to a minor child or care recipient; (ii) an employee’s need to attend a legal proceeding or hearing for subsistence benefits to which the employee, a family member or the employee’s care recipient is a party; or (iii) any circumstance that would constitute a basis for permissible use of safe time or sick time as set forth in section 20-914.

The following terms would have the same meanings as those set forth in section 20-912: calendar year, child, family member, and paid safe/sick time.

Section 20-1262 would require that an employer allow each employee who meets the bill’s threshold criteria two temporary changes to the work schedule relating to a “personal event.” Pursuant to subdivision a of such section, the employee would have to notify the employee’s employer or direct supervisor as soon as the employee knows of a need for a temporary change to the work schedule, and would have to inform the employer or supervisor that the change is due to a personal event. The temporary change would be a limited alteration in the hours or times that or locations where an employee is expected to work, including, but not limited to, using paid time off, working remotely, swapping or shifting work hours and using short-term unpaid leave. The employee would submit the request in writing (or by electronic means, if such means are readily available to the employee) as soon as practicable and no later than the first business day after the employee returns to work after the temporary change to the work schedule. If the employee does not submit a written request, the employer does not need to respond in writing. The employee could offer some proposals for what the temporary change would consist of, if the employee were seeking a change other than leave without pay. Upon receiving a request, the employer would respond immediately, and respond in writing within 14 business days after the employee submits the request in writing. The employer’s response would include: whether or not the employer will grant the temporary change or whether the change will be leave without pay (which is not a denial), an explanation (if the employer denies the request), and how many requests and business days an employee has left in a calendar year. An employer may deny a temporary change

relating to a personal event if the employee has already exhausted two requests or if an exemption in the bill applies.

Subdivision b of section 20-1262 would allow an employer to grant or deny changes to the work schedule other than the required changes relating to a “personal event.” The employer and the employee would follow the same procedure as for requesting a change related to a “personal event.”

Subdivision b of section 20-1262 also would prohibit an employer from retaliating against an employee for having used one or both of the two required schedule changes due to a “personal event.” Subdivision b also would prohibit an employer from retaliating against an employee for asking for a schedule change of any kind and who is granted a schedule change of any kind.

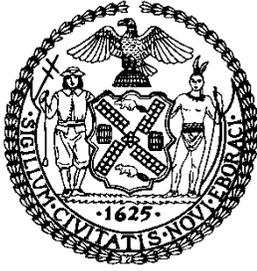
Subdivision c of section 20-1262 would clarify that an employee may request schedule changes under this subchapter without using leave accrued under the earned safe and sick time act and that unpaid leave granted pursuant to this section would not count towards an employer’s obligation to grant leave pursuant to chapter 8 of title 20 (relating to the Earned Safe and Sick Time Act). Nothing would affect an employer’s obligation to provide a reasonable accommodation in the form of a change to work schedule under the requirements of other provisions of law and regulations, such as those governing religious observance, disability, pregnancy, childbirth or a related medical condition.

Subdivision a of section 20-1263 would describe who is exempted from the coverage by Proposed Int. No. 1399-A, which would include: (i) an employee who is covered by a collective bargaining agreement if the agreement waives the provisions of Proposed Int. No. 1399-A and also address temporary changes to work schedules; (ii) an employee who has been employed by the employer for less than 120 days; or (iii) an employee of any employer in the entertainment industry, except for an employee whose primary duty is office work or any other work related to management or general business operations or an employee whose work that does not directly relate to performance and whose primary duty consists performing certain routine work related to buildings or locations (e.g., a set) used by the employer; or (iv) an employee who works fewer than 80 hours in the city in a calendar year. Subdivision b of section 20-1263 states that Proposed Int. No. 1399-A would not preempt, limit, or otherwise affect the applicability of any provisions of any policy or standard that provides comparable or superior benefits for employees.

Section two of Proposed Int. No. 1399-A would amend the penalty provisions of chapter 20 to include some that would apply specifically to subchapter 6. For each violation of subdivision a or b of section 20-1262, the agency could fine an employer \$500 and order the employer to comply with the relevant subdivision. However, an employer could cure a violation of subdivision a of section 20-1262 (if such violation relates to not having provided an employee with a written response) by providing the employee with the required written response within seven days of being put on notice by the office.

The third section of Proposed Int. No. 1399-A is the enactment clause. The clause would provide that this local law takes effect 180 days after it becomes law and would apply to employees covered by a valid collective bargaining upon the termination of such agreement. In addition, the director of the office of labor standards may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before the effective date.

(The following is the text of the Fiscal Impact Statement for Int. No. 1399-A:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
 LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1399-A

COMMITTEE: Civil Service and Labor

TITLE: A local law to amend the administrative code in relation to protecting employees who seek temporary changes to work schedules for personal events and certain other schedule changes

SPONSOR(S): Council Members Rose, Lander, Dromm, Cumbo, Kallos, Constantinides, Levin, Cohen, Reynoso, Levine, Rosenthal, Johnson, Salamanca, Van Bramer, Torres, Lancman, Menchaca, Chin, Cabrera, Espinal, Eugene, Maisel, Williams, Barron, Miller, Ferreras-Copeland, Treyger, Richards, King, Perkins, Rodriguez and the Public Advocate (Ms. James)

SUMMARY OF LEGISLATION: This legislation would require an employer to allow employees to take two temporary schedule changes per year – including paid time off, remote work, changing work hours and unpaid leave – relating to a personal event (caregiving responsibilities, legal proceedings or hearing for subsistence benefits, or anything that would constitute a basis for permissible use of safe time or sick time). The bill would also establish a written process for employees and employers to communicate regarding requests for such changes. The bill would protect employees from employers retaliating against them for making schedule changes requests.

This legislation would additionally establish that the employer may deny the request only if the employee has already used their two allotted requests. This legislation would not apply to employees who have been employed for fewer than 120 days, work less than 80 hours in the city in a calendar year, or certain employees who are employed by an employer in the motion picture or live entertainment business. Additionally employees covered by a collective bargaining agreement that addresses temporary changes to work schedules would be exempt.

Finally, this legislation establishes that an employer violation of this legislation would result in \$500 fine awarded to the employee and an order of compliance issued by the Office of Labor Policy and Standards, provided that an employer who fails to provide an employee with a written response to their request may cure the violation without penalty by providing the Office with proof that it issued such response to the employee within seven days of the Office notifying the employer of the opportunity to cure.

EFFECTIVE DATE: This local law would take effect 180 days after it becomes law, provided that in the case of employees covered by a valid collective bargaining agreement in effect on the effective date, the local law would take effect on the date of the termination of such agreement. Additionally, the Director of the Office of Labor Standards may take such measures as are necessary for the implementation of the local law, including the promulgation of rules, before the effective date of the local law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY19	FY Succeeding Effective FY20	Full Fiscal Impact FY20
Revenues	\$0	\$0	\$0
Expenditures	\$799,330	\$310,470	\$310,470
Net	(\$799,330)	(\$310,470)	(\$310,470)

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenue resulting from this legislation.

IMPACT ON EXPENDITURES: It is anticipated that that this legislation would impact expenditures in the amount of nearly \$800,000 in Fiscal 2019 and \$310,000 annually thereafter – largely the result of personal service (PS) costs. PS costs will total roughly \$308,000 annually, representing the salary and fringe benefits of the following staff which will need to be hired at the Office of Labor Policy and Standards: outreach associate (1); agency attorney (1); and investigator (1). Other than personal services (OTPS) expenses are expected to cost roughly \$491,000 in the first year and \$2,300 per year after that. The cost in Fiscal 2019 for OTPS is almost entirely due to the public awareness campaign that the Office will undertake with an estimated cost of \$474,000.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

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

ESTIMATE PREPARED BY: Kendall Stephenson, Economist, Finance Division

ESTIMATE REVIEWED BY: Paul Sturm, Supervising Economist, Finance Division
Raymond Majewski, Deputy Director/Chief Economist, Finance Division
Eric Bernstein, Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Intro. No. 1399 on December 6, 2016 and was referred to the Committee on Civil Service and Labor (Committee). On March 3, 2017, the Committee held a hearing on Intro. No. 1399, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 1399-A will be considered by the Committee at a hearing on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1399-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 15, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1399-A:)

Int. No. 1399-A

By Council Members Rose, Lander, Dromm, Cumbo, Kallos, Constantinides, Levin, Cohen, Reynoso, Levine, Rosenthal, Johnson, Salamanca, Van Bramer, Torres, Lancman, Menchaca, Chin, Cabrera, Espinal, Eugene, Maisel, Williams, Barron, Miller, Ferreras-Copeland, Treyger, Richards, King, Perkins, Rodriguez and the Public Advocate (Ms. James).

A Local Law to amend the administrative code of the city of New York, in relation to protecting employees who seek temporary changes to work schedules for personal events and certain other schedule changes

Be it enacted by the Council as follows:

Section 1. Chapter 12 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 6 to read as follows:

Subchapter 6

Temporary Changes to Work Schedules for Personal Events and Protections from Retaliation for Making Schedule Change Requests

§ 20-1261 *Definitions. a. For purposes of this subchapter, the following terms have the following meanings:*

Business day. The term “business day” means any 24-hour period when an employer requires employees to work at any time.

Caregiver. The term “caregiver” means a person who provides direct and ongoing care for a minor child or a care recipient.

Care recipient. The term “care recipient” means a person with a disability who (i) is a family member or a person who resides in the caregiver’s household and (ii) relies on the caregiver for medical care or to meet the needs of daily living.

Minor child. The term “minor child” means a child under the age of 18.

Personal event. The term “personal event” means (i) the need for a caregiver to provide care to a minor child or care recipient; (ii) an employee’s need to attend a legal proceeding or hearing for subsistence benefits to which the employee, a family member or the employee’s care recipient is a party; or (iii) any circumstance that would constitute a basis for permissible use of safe time or sick time as set forth in section 20-914.

b. For purposes of this subchapter, the following terms have the same meanings as those set forth in section 20-912: calendar year, child, family member and paid safe/sick time.

§ 20-1262 *Required temporary changes and other requests for changes to a work schedule. a. An employer shall grant an employee’s request for a temporary change to the employee’s work schedule relating to a personal event in accordance with the following provisions, with a temporary change meaning a limited alteration in the hours or times that or locations where an employee is expected to work, including, but not limited to, using paid time off, working remotely, swapping or shifting work hours and using short-term unpaid leave:*

1. On request, the employer must grant a request for a temporary change to the employee’s work schedule under this section two times in a calendar year for up to one business day per request. The employer may permit the employee to use two business days for one request, in which case the employer need not grant a second request.

2. An employee who requests such a change:

(a) Shall notify such employee’s employer or direct supervisor as soon as the employee becomes aware of the need for a temporary change to the work schedule and shall inform the employer or supervisor that the change is due to a personal event;

(b) Shall make a proposal for the temporary change to the work schedule, unless the employee seeks leave without pay; and

(c) Need not put the initial request in writing, but as soon as is practicable, and no later than the second business day after the employee returns to work following the conclusion of the temporary change to the work schedule, the employee must submit the request in writing, indicating the date for which the change was requested and that it was due to the employee’s personal event. The employer may require that such request be submitted in electronic form if employees of the employer commonly use such electronic form to request and

manage leave and schedule changes. If the employee fails to submit the written request, the employer's obligation to respond in writing pursuant to paragraph 3 of this subdivision is waived.

3. An employer who receives such an initial request shall respond immediately, but need not put such initial response in writing. As soon as is practicable, and no later than 14 days after the employee submits the request in writing, the employer shall provide a written response, which may be in electronic form if such form is easily accessible to the employee. An employer's written response shall include:

(a) Whether the employer will agree to the temporary change to the work schedule in the manner requested by the employee, or will provide the temporary change to the work schedule as leave without pay, which does not constitute a denial;

(b) If the employer denies the request for a temporary change to the work schedule, an explanation for the denial; and

(c) How many requests and how many business days pursuant to this subchapter the employee has left in the calendar year after taking into account the employer's decision contained in the written response.

4. An employer may deny a request for a temporary change to the employee's work schedule relating to a personal event only if the employee has already exhausted the two allotted requests in the calendar year pursuant to paragraph 1 of subdivision a of this section or if an exemption set forth in section 20-1263 applies.

b. An employee may request, and in so doing is protected by the provisions of subchapter 1 of this chapter, and an employer may grant or deny, a change to a work schedule other than the temporary changes an employer is required to grant under subdivision a of this section. An employee request for such other change to a work schedule and an employer response to such a request shall follow the procedure in paragraphs 2 and 3 of subdivision a of this section to the extent applicable and as set forth in rules promulgated by the director.

c. 1. An employee need not use leave accrued under chapter 8 of this title before requesting schedule changes under this subchapter.

2. Unpaid leave granted for a personal event pursuant to this subchapter does not count toward an employer's obligation to grant leave under chapter 8 of this title.

3. Leave granted under chapter 8 of this title does not count toward an employer's obligation to grant leave under this section.

4. Nothing in this subchapter affects an employer's obligation to provide a reasonable accommodation in the form of a change to a work schedule required pursuant to other laws or regulations or to otherwise comply with the requirements of other laws or regulations, including, but not limited to, those requirements contained in title 8.

§ 20-1263 Exemptions. This subchapter does not:

a. Apply to any employee who:

1. Is covered by a valid collective bargaining agreement if such agreement waives the provisions of this subchapter and addresses temporary changes to work schedules;

2. Has been employed by the employer for fewer than 120 days;

3. Is employed by any employer whose primary business for which that employee works is the development, creation or distribution of theatrical motion pictures, televised motion pictures, television programs or live entertainment presentations, except for an employee whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers and except for an employee whose primary duty is performing routine mental, manual, mechanical or physical work in connection with the care or maintenance of an existing building or location used by the employer; or

4. Works fewer than 80 hours in the city in a calendar year.

b. Preempt, limit or otherwise affect the applicability of any provisions of any other law, regulation, requirement, policy or standard, other than a collective bargaining agreement, that provides comparable or superior benefits for employees to those required herein.

§ 2. Subdivision a of Section 20-1208 of the administrative code of the city of New York, as added by local law number 107 for the year 2017, is amended to read as follows:

a. For violations of this chapter, the office may grant the following relief to employees or former employees:

1. All compensatory damages and other relief required to make the employee or former employee whole;

2. An order directing compliance with the notice and posting of rights and recordkeeping requirements set forth in sections 20-1205 and 20-1206; and

3. For each violation of:

(a) Section 20-1204,

(1) Rescission of any discipline issued, reinstatement of any employee terminated and payment of back pay for any loss of pay or benefits resulting from discipline or other action taken in violation of section 20-1204;

(2) \$500 for each violation not involving termination; and

(3) \$2,500 for each violation involving termination;

(b) Section 20-1221, \$200 and an order directing compliance with section 20-1221;

(c) Section 20-1222, payment of schedule change premiums withheld in violation of section 20-1222 and \$300;

(d) Section 20-1231, payment as required under section 20-1231, \$500 and an order directing compliance with section 20-1231;

(e) Section 20-1241, \$300 and an order directing compliance with section 20-1241;

(f) Subdivision a of section 20-1251, the greater of \$500 or such employee's actual damages; [and]

(g) Subdivisions a and b of section 20-1252, \$300[.]; and

(h) *Subdivision a or b of section 20-1262, \$500 and an order directing compliance with such subdivision, provided, however, that an employer who fails to provide an employee with the written response required by subdivision a of section 20-1262 may cure the violation without a penalty being imposed by presenting proof to the satisfaction of the office that it provided the employee with the required written response within seven days of the office notifying the employer of the opportunity to cure.*

§ 3. This local law takes effect 180 days after it becomes law, provided that in the case of employees covered by a valid collective bargaining agreement in effect on such date, this local law takes effect on the date of the termination of such agreement, and provided further that the director of the office of labor standards may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such effective date.

COSTA G. CONSTANTINIDES, *Acting Chairperson*; ELIZABETH S. CROWLEY, DANIEL DROMM, ROBERT E. CORNEGY, Jr.; Committee on Civil Service and Labor, December 18, 2017.

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 Economic Development

Report for Int. No. 1615-A

Report of the Committee on Economic Development in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the creation of a subcontractor resource guide.

The Committee on Economic Development, to which the annexed proposed amended local law was referred on May 24, 2017 (Minutes, page 1612), respectfully

REPORTS:

I. INTRODUCTION

On December 18, 2017, the Committee on Economic Development, chaired by Council Member Daniel R. Garodnick, voted to approve Introduction No. 1615-A, sponsored by Council Member Laurie Cumbo, which would create a subcontractor resource guide. The Committee previously heard this bill at a hearing on June 22, 2017 and received testimony from the Mayor’s Office of Contract Services, the New York City Department of Small Business Services, businesses contracting with the city, and interested members of the public.

II. BACKGROUND

The mayoral agencies of New York City enter into tens of thousands of contracts with private vendors each year.¹ These contracts range from large professional services or construction contracts to smaller human services or goods contracts.² In many of these cases subcontractors are hired by prime contractors in order to complete the terms of the contract. Under existing city rules subcontractors can be proposed by prime contractors at any time, but must be approved by the respective city agency before that subcontractor’s work can commence.³

Since the passage of Local Law 1 of 2013⁴ city agencies have been permitted to set participation goals for Minority- and Women-Owned Businesses (“M/WBEs”) in city procurement for standardized, professional and construction services contracts.⁵ This includes M/WBE status for both prime contractors as well as their subcontractors.⁶ In September 2016 Mayor De Blasio announced his intention to further expand M/WBE contracting to all city contract awards – with the goal of reaching thirty percent of all city contracting expenditures on M/WBEs by 2021.⁷

In order to meet these M/WBE participation goals, often city agencies will rely on prime contractors to find M/WBE subcontractors themselves. While the role of M/WBE subcontractors currently varies across industries in city procurement, city agencies and prime contractors are preparing to meet the Mayor’s proposal in 2021 when the M/WBE participation goals will apply to most city contracts. As 2021 approaches and the 30% M/WBE participation goal expands to most city contracts, the relationships between subcontractors – M/WBEs and non-M/WBE alike – and prime contractors will need to be thoroughly understood by all parties involved in city procurement.

III. GENERAL RIGHTS OF CONTRACTORS

City procurement is governed by several state and local laws, including the New York State General Municipal Law (“GML”), the New York City Charter, and rules promulgated by the Procurement Policy Board (“PPB”). *GML §103* requires state and local agencies to utilize a competitive bidding process to award government contracts to the lowest responsible bidder.⁸ The policy rationale behind these requirements include: 1) “the protection of the public fisc by obtaining the best work at the lowest possible price; and 2) the prevention of favoritism, improvidence, fraud, and corruption in the awarding of public contracts.”⁹ In the interest of preserving the resources necessary to conduct the competitive bidding process, *GML §103* does permit establishing rules to govern small purchases for which competitive bidding is not required.¹⁰ Chapter 13

¹ See Mayor’s Office of Contract Services “Agency Procurement Indicators Fiscal Year 2016” at 4-5 *available at* <http://www1.nyc.gov/assets/mocs/downloads/pdf/IndicatorsReport/AgencyProcurementIndicators20161017.pdf>

² *See id.*

³ See Mayor’s Office of Contract Services, “M/WBE Regulations” *available at* <https://www1.nyc.gov/site/mocs/mwbe/regulations.page>.

⁴ See N.Y.C. Admin. Code § 6-129.

⁵ *See id.*

⁶ See N.Y.C. Admin. Code § 6-129.

⁷ See Mayor’s Office of M/WBEs, “Mayor de Blasio Announces Bold New Vision for the City’s M/WBE Program,” Sep. 28, 2016 *available at* <http://www1.nyc.gov/office-of-the-mayor/news/775-16/mayor-de-blasio-bold-new-vision-the-city-s-m-w-be-program/#/0>

⁸ See N.Y. General Municipal Law §§ 103-104.

⁹ N.Y. State Chapter, Inc. v. N.Y. State Thruway Authority, 88 N.Y.2d 56, 68 (1996).

¹⁰ See N.Y. General Municipal Law §103.

of the City Charter provides that the PPB is responsible for promulgating rules required by Chapter 13 and certain additional rules “necessary to implement th[ose] provisions.”¹¹

One of the many underlying purposes of the PPB rules is to “ensure the fair and equitable treatment of all persons” who engage with the city’s procurement system and to foster effective competition from all segments of the vendor community, including small businesses and minority and women-owned business enterprises.¹² The PPB rules govern city procurement, including guidance on how agencies draft solicitations, conduct determinations of vendor responsibility, and vendor performance evaluations.¹³ Provisions within the PPB rules also indicate the rights of vendors who enter into a contract with the city, such as the ability to appeal a non-responsibility determination, directly engage in the evaluation and documentation of their performance fulfilling the contract, and the right to prompt payments.¹⁴

While there are several procurement-related laws that extend protections and rights to vendors contracting with the city, their applicability can be limited to a prime contractor in a direct contractual relationship with the city.¹⁵ While prime contractors are legally held to accountability and compliance requirements when they utilize a subcontractor, advocates and businesses owners have expressed a need for more city oversight of prime contractors to ensure the fair treatment of subcontractors.¹⁶

IV. PRACTICAL IMPACTS ON SUBCONTRACTORS

As subcontractors are not in a direct contractual relationship with the city, and thus may not be privy to the same payment and other agreements ensured to the prime contractor, steps could be taken to ensure that specific protections and supports exist for subcontractors hired to fulfill the city’s prime contracts.

There are some protections for subcontractors on federal prime contracts, most significantly related to construction. The amended Miller Act of 1935 authorizes subcontractors who provide labor or materials used for federal construction projects of \$150,000 or more to recoup payment due by taking civil action against a prime contractor’s payment bonds.¹⁷ The 1988 amendments to the Prompt Payment Act requires federal agencies to include a clause in their contracts that ensures the subcontractor is paid by the prime contractor for “satisfactory” performance within seven days of receiving payment from the contracting agency.¹⁸

Further, Section 8(d) of the Small Business Act requires that prime contractors provide the contracting officer written notification if a subcontractor is paid a “reduced price” for completed work or is paid more than 90 days past due.¹⁹ Section 8(d) also generally requires that prime contractors include plans to subcontract with small businesses for percentages of the work, as well as make “good faith efforts” to employ any subcontractors that assisted in preparing the winning bids or proposals.²⁰ Failure to do so requires a written explanation from the prime contractor to the contracting officer.²¹

The city does provide some support to subcontractors of government contracts. The Department of Small Business Services (“SBS”) and the Mayor’s Office of M/WBEs are positioned to provide subcontractors with educational services and other support should they encounter non-payment or other issues with a prime contractor on a city contract. However, more can be done to help protect subcontractors, especially small businesses and M/WBEs that may be particularly vulnerable should they need to contend with non-payment or other issues with the prime contractor. Creating a resource guide would serve to communicate the rights of

¹¹ See N.Y.C. Charter Ch. 13.

¹² See Procurement Policy Board Rules available at <http://www.nyc.gov/html/mocs/ppb/downloads/pdf/April2010rulesmodifiedMar2011pdf.pdf>.

¹³ See *id.*

¹⁴ See *id.*

¹⁵ See Council of the City of New York, *Testimony of Nancy Carin, Business Outreach Center before the Committee on Contracts* (Dec. 5, 2016), available at <http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=516956&GUID=349FEBE0-4B32-49AF-B7C5-2D7F86421A3D&Options=&Search=>

¹⁶ See *id.*

¹⁷ See Kate M. Manuel, Legal Protections for Subcontractors on Federal Prime Contracts, CONGRESSIONAL RESEARCH SERVICE (January 27, 2014), available at <https://fas.org/sgp/crs/misc/R41230.pdf>

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

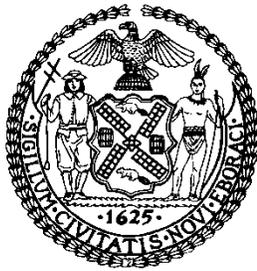
²¹ *Id.*

subcontractors working for a prime contractor in contract with the city, as well as offer guidance as a valuable educational tool for prime contractors and subcontractors alike.

V. PROPOSED INTRO. NO. 1615-A

This bill would require the Department of Small Business Services, in consultation with the City Chief Procurement Officer, to develop and make available to all agencies a subcontractor a subcontractor resource guide which would provide subcontractors with information about their rights with respect to payment by contractors and available city services. The bill would also require the subcontractor resource guide to be published on the City’s website.

(The following is the text of the Fiscal Impact Statement for Int. No. 1615-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 1615-A

COMMITTEE: Economic Development

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the creation of a subcontractor resource guide
SPONSOR(S): By Council Members Cumbo, Cornegy, Rosenthal, Menchaca, Gentile and Kallos

SUMMARY OF LEGISLATION: Proposed Intro. No. 1615-A requires the Department of Small Business Services (SBS), in consultation with the City Chief Procurement Officer, to develop and make available to all contracting agencies a subcontractor resource guide, in the form of a written document, which provides subcontractors with key information on city contracting. SBS would be required to coordinate with the City Chief Procurement Officer to update the guide as necessary and make the guide available on SBS’ website. Additionally, each contracting agency would be required to provide a link to the guide, as appropriate.

EFFECTIVE DATE: This legislation takes effect 180 days after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
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: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because SBS can use existing resources to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A**SOURCE OF INFORMATION:** New York City Council Finance Division**ESTIMATE PREPARED BY:** Aliya Ali, Senior Financial Analyst**ESTIMATE REVIEWED BY:** Latonia McKinney, Director
Eric Bernstein, Counsel
Crilhien Francisco, Unit Head
Nathan Toth, Deputy Director

LEGISLATIVE HISTORY: This legislation was introduced to the Council on May 24, 2017 as Intro. No. 1615 and was referred to the Committee on Economic Development (Committee). The Committee, jointly with the Committee on Contracts, considered the legislation at a hearing on June 22, 2017 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1615-A, will be voted on by the Committee at a hearing on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1615-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 8, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1615-A:)

Int. No. 1615-A

By Council Members Cumbo, Cornegy, Rosenthal, Menchaca, Gentile, Kallos and Barron.

A Local Law to amend the administrative code of the city of New York, in relation to the creation of a subcontractor resource guide

Be it enacted by the Council as follows:

Section 1. Title 6 of the administrative code of the city of New York is amended to add a new section 6-142 to read as follows:

§ 6-142 Subcontractor resource guide a. For purposes of this section, the following terms shall have the following meanings:

“Contracting agency” means a city, county, borough, or other office, position, 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.

“Contractor” means a person or entity who is a party to a contract with a contracting agency valued in excess of \$100,000.

“Subcontractor” means a person or entity who is a party or a proposed party to a contract with a contractor valued in excess of \$100,000.

“Department” means the department of small business services.

b. The department, in consultation with the city chief procurement officer, shall develop and make available to all contracting agencies a subcontractor resource guide. Such resource guide shall be in the form of a written document, using plain and simple language, which provides subcontractors with key information on city contracting. Such resource guide may include, but not be limited to, information about the rights of subcontractors with respect to payment by the contractor, available city services to assist subcontractors, and contact information for relevant city agencies. The department shall coordinate with the city chief

procurement officer to update such resource guide as necessary and make such resource guide available on the website of the department.

c. Each contracting agency shall provide a link to the subcontractor resource guide published on the department's website, as appropriate.

d. The subcontractor resource guide shall serve as an informational document only and nothing in this section or in such document shall be construed to create a cause of action or privity of contract between the agency and the subcontractor, or to constitute a defense in any legal, administrative or other proceeding.

e. Nothing in this section shall be construed to limit an agency's authority to cancel or terminate a contract, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity pre-qualification, or otherwise deny a contractor city business.

§2. This local law takes effect 180 days after it becomes law.

DANIEL R. GARODNICK, *Chairperson*; VINCENT J. GENTILE, KAREN KOSLOWITZ, DONOVAN J. RICHARDS, ADRIENNE E. ADAMS, JOSEPH C. BORELLI; Committee on Economic Development, December 18, 2017.

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 Education

Report for Int. No. 1497-A

Report of the Committee on Education in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report on students in temporary housing.

The Committee on Education, to which the annexed proposed amended local law was referred on March 1, 2017 (Minutes, page 660), respectfully

REPORTS:

Introduction

On December 18, 2017, the Committee on Education, chaired by Council Member Daniel Dromm, considered Int. No. 1497-A, sponsored by Council Member Rafael Salamanca. The bill was previously heard at a joint hearing with the Committee on General Welfare on October 11, 2017. At that hearing, representatives from the Department of Education (DOE), Human Resources Administration (HRA), Department of Homeless Services (DHS), union leaders, advocates, educators, parents, and students were invited to testify. On December 18, 2017, the Committee passed Int. No. 1497-A by a vote of thirteen in the affirmative, zero in the negative, with zero abstentions.

Background

The Committees on Education and General Welfare previously held a hearing on homeless students, entitled "DOE's Support for Students who are Homeless or In Temporary Housing," on February 3, 2016.¹

¹ See Committee Report of the New York City Council Committees on Education, and General Welfare, "DOE's Support for Students who are Homeless or in Temporary Housing," February 4, 2016, available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2554248&GUID=5520E3E3-56F4-4718-9B77-C7D39BBEAE87&Options=Advanced&Search=>.

New York City is experiencing a homelessness crisis, with homelessness at the highest levels since the Great Depression of the 1930s.² In fact, over 140,000 New York City students have experienced homelessness at some point in the last six years,³ and research shows that, if current trends continue, one out of every seven NYC public school students will be homeless while attending elementary school.⁴ Student homelessness citywide is increasing. In School Year (SY) 2015-16, with almost 100,000 homeless students attending DOE schools, there was a 20% increase in student homelessness in just one year.⁵ According to the Independent Budget Office (IBO), from SY 2011-12 to SY 2015-16, there was a 44% increase in shelter students attending school in the Bronx.⁶ Additionally, during the same five-year period, the number of homeless students increased by 18% in Brooklyn, 21% in Manhattan, 50% in Queens and 105% in Staten Island.⁷

New York State tracks student homelessness by their “primary nighttime residence,” of which there are five types: doubled up; hotel/motel; transitional housing; sheltered; and unsheltered (cars, parks, campgrounds, temporary trailer, or abandoned buildings).⁸ The increase in student homelessness was primarily driven by the number of children living doubled up with another family.⁹ Students living doubled up increased to more than 60,000 in SY 2015-16, which represented a 25% increase from the previous year.¹⁰

While there is a significant number of homeless NYC students, notably, most students are homeless for more than one school year.¹¹ In fact, two-thirds of New York City’s homeless students were homeless in more than one school year, and one-third of homeless students were homeless in at least four out of the past six years.¹²

Overrepresentation in Homelessness

Certain student populations are overrepresented in homelessness, including Hispanic and Black students. In SY 2015-16, Black students represented 27.1% of DOE’s student population;¹³ however, they accounted for 33% of homeless students in NYC.¹⁴ Additionally, in SY 2015-16, Hispanic students represented 40.5% of DOE’s student population;¹⁵ however, they accounted for 52% of homeless students in NYC.¹⁶ While Black and Hispanic students are overrepresented in homelessness, White and Asian students are underrepresented. In SY 2015-16, White students, who represented 14.8% of DOE’s student population,¹⁷ accounted for 4% of homelessness,¹⁸ and Asian students, who represented 15.5% of DOE’s student population,¹⁹ accounted for 9% of homeless students.²⁰

² Coalition for the Homeless, “Basic Facts About Homelessness: New York City,” available at <http://www.coalitionforthehomeless.org/basic-facts-about-homelessness-new-york-city/>.

³ Institute for Children and Poverty (ICPH), *The Atlas of Student Homelessness in New York City*, August 2017, at 2, available at http://www.icphusa.org/wp-content/uploads/2017/08/ICPH_StudentAtlas2017_pp2-95.pdf (hereinafter 2017 ICPH Report)

⁴ 2017 ICPH Report, *supra* note 3.

⁵ *Id.*

⁶ Pappas, L., New York City Independent Budget Office “As the Number of Students Living in Shelters Has Grown, Has The Increase Been Uniform Among Schools Across the City?,” available at <http://www.ibo.nyc.ny.us/iboreports/printnycbtn73.pdf>, (last visited Oct. 3, 2017).

⁷ *Id.*

⁸ NYS-TEACHS, Data Entry in the Student Information Repository System (SIRS) for Students Experiencing Homelessness, August 4, 2017, available at <http://www.nysteachs.org/info-topic/statistics.html>.

⁹ 2017 ICPH Report, *supra* note 3.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ DOE’s Demographic Snapshots, available at <http://schools.nyc.gov/Accountability/data/default.htm>.

¹⁴ 2017 ICPH Report, *supra* note 3.

¹⁵ DOE’s Demographic Snapshots, available at <http://schools.nyc.gov/Accountability/data/default.htm>

¹⁶ 2017 ICPH Report, *supra* note 3.

¹⁷ DOE’s Demographic Snapshots, available at <http://schools.nyc.gov/Accountability/data/default.htm>

¹⁸ 2017 ICPH Report, *supra* note 3.

¹⁹ DOE’s Demographic Snapshots available at <http://schools.nyc.gov/Accountability/data/default.htm>

²⁰ 2017 ICPH Report, *supra* note 3.

Young students are also overrepresented in homelessness. According to one study, “the vast majority of families were composed of single mothers with two young children, often under the age of six.”²¹ In fact, kindergarten through second grade are more likely to have homeless students than higher grade levels.²² Notably, available data suggests that more than 2,500 homeless children who were eligible for Universal Pre-K in NYC were not enrolled in a program during SY 2015–16.²³

Although homeless students attend schools in every district, homelessness is not equally distributed across the city. For instance, in SY 2015-16, Riverdale/Bedford in the Bronx had more than 10,000 homeless students; however, Bayside in Queens only had 823 homeless students.²⁴ Furthermore, in SY 2015–16, the Bronx had the highest number of homeless students with 38,509, followed by Brooklyn with 28,635, Manhattan with 18,313, Queens with 17,078, and Staten Island with 2,910.²⁵

Impact on Educational Experience and Academic Achievement

At large, the homeless student population endure various academic hardships, such as hardships produced by frequent school transfers. During SY 2015-16, 22% of homeless students transferred schools in the middle of the academic year, which was more than two times the citywide rate.²⁶ According to the Institute for Children and Poverty (ICPH), “transferring school mid-year heightens students’ risk for chronic absenteeism—one of the strongest predictors of educational achievement and graduation outcomes.”²⁷ Notably, in SY 2015-16, 34% of homeless students were chronically absent, or missed more than 19 days of school.²⁸ This was four times the rate of non-low-income housed students.²⁹

Additionally, when compared with their peers, in SY 2015-16 New York City homeless students received significantly lower grades on NYS English Language Arts and Math exams. On the 3rd-8th grade State English Language Arts exam, 21% of homeless students scored proficient; however, 36% of low-income housed students scored proficient and 68% of non-low-income housed students scored proficient.³⁰ Similarly, on the 3rd-8th grade State math exam, just 19% of homeless students scored proficient, compared with about 35% of low-income housed students and 66% of non-low-income housed students.³¹

In addition to academic challenges, homeless students also face social and behavioral challenges in school. According to ICPH, “social and behavioral challenges are widely recognized outcomes for children who have experienced trauma, especially those who are homeless.”³² Notably, in SY 2015-16 homeless students and formerly homeless students were disproportionately suspended from school in comparison to their peers.³³ During this period, 3% of homeless students and 5% of formerly homeless students were suspended; however, 2.6% of housed low-income students, and 0.7% of non-low-income housed students were suspended.³⁴

Homeless students also have higher dropout rates and lower high school graduation rates than their housed peers. According to ICHP, in 2016, “homeless students dropped out of high school at two times the rate of low-income housed students and over three times the rate of non-low-income housed students.”³⁵ Furthermore, in 2016, 55% of homeless students graduated from high school; however, 73% of housed students receiving free lunch and 83.9% of housed students not receiving free lunch graduated that same year.³⁶

²¹ Ellen L. Bassuk et al., *America’s Youngest Outcasts: A Report Card on Child Homelessness*, at 9, The National Center on Family Homelessness at American Institutes for Research, 2014, accessed at <https://www.air.org/sites/default/files/downloads/report/Americas-Youngest-Outcasts-Child-Homelessness-Nov2014.pdf>.

²² 2017 ICPH Report, *supra* note 3.

²³ *Id.*

²⁴ *Id.*

²⁵ NYS-TEACHS, SIRS Data on Student Homelessness: Students Identified as Homeless 2015-2016, available at <http://www.nysteachs.org/info-topic/statistics.html>.

²⁶ 2017 ICPH Report, *supra* note 3.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

The McKinney-Vento Homeless Assistance Act

The McKinney-Vento Homeless Assistance Act (McKinney-Vento Act) was designed, in part, to ensure that every child receives a “free, appropriate public education.”³⁷ Under the terms of the Act, States receive federal grant money if they meet certain requirements regarding the education of homeless children and youth.³⁸ Pursuant to the Act, homeless children and youth are defined as “individuals who lack a fixed, regular, and adequate nighttime residence.”³⁹ This includes unaccompanied youth who are not in the physical custody of a parent or guardian.⁴⁰

The McKinney-Vento Act requires that students in homeless shelters be allowed to either remain in their school of origin or, if the parent or guardian determines it is not in the child’s best interest to remain in that school, the student may enroll in any public school that students living near the shelter are eligible to attend.⁴¹ If the Local Educational Agency (LEA)⁴² determines it is not within the student’s best interest to remain in the school of origin or the school requested by the parent or guardian, the LEA must provide the parent or guardian with a written explanation of the decision and notify them of their right to appeal.⁴³ A local homeless education liaison must assist unaccompanied youth with enrollment and must provide youth with notice of a right to appeal if they are not placed in the school they requested.⁴⁴

Homeless children and youth must also be allowed to enroll in school immediately, even if they do not have documents normally required for enrollment.⁴⁵ If the student needs to obtain immunization records or medical records, the school must immediately refer the parent, guardian, or unaccompanied youth to the local homeless education liaison to assist them in obtaining their records.⁴⁶ The enrolling school is also required to contact immediately the student’s last school in order to obtain records.⁴⁷

Under the McKinney-Vento Act, homeless children and youth are also entitled to equal participation in other school services, and the state educational agency and LEA must ensure that transportation is provided, if the parent, guardian, or liaison requests it.⁴⁸ For example, disabilities programs, limited English proficiency programs, vocational and technical education programs, gifted and talented programs, and school nutrition programs must be provided on a comparable basis.⁴⁹ Homeless students also have the right to equal access to afterschool programs and preschool programs.⁵⁰

State education agencies and LEAs are also responsible for examining policies that act as a barrier to enrollment for homeless children and youth and revising such policies where appropriate.⁵¹ They must develop and implement professional development programs to educate school personnel on problems faced by homeless children and youth and methods for identifying homeless children and youth. Finally, the agencies are required to ensure that students are not stigmatized or segregated based on being homeless.⁵²

On December 10, 2015, President Barack Obama signed into law the “Every Student Succeeds Act of 2015,” (ESSA) which reauthorized the Elementary and Secondary Education Act.⁵³ For homeless students, ESSA builds on existing provisions of the McKinney-Vento Act in order to improve services in areas including school stability, enrollment and full participation, credit accrual and college readiness. With regard to school stability, the amendments include requiring the LEA to make a best interest determination, with a

³⁷ 42 USCA § 11431.

³⁸ 42 USCA § 11432.

³⁹ 42 USCA § 11434a.

⁴⁰ *Id.*

⁴¹ 42 USCA § 11432 (defining “school of origin” as the school the student attended when permanently housed or the school in which the student last enrolled).

⁴² Local education agency is defined as a “public board of education or other public authority . . . that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.” 20 USCA 7801(30)(A).

⁴³ 42 USCA § 11432

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ National Center for Homeless Education, Every Student Succeeds Act of 2015, available at <http://center.serve.org/nche/legis/essa.php>.

presumption that staying in the school of origin is in the child or youth's best interest, unless it is against the parent, guardian or unaccompanied youth's wishes.⁵⁴ Further, if a student obtains permanent housing, and if it is determined to be in the student's best interest to remain in the school of origin, transportation must continue to be provided until the end of the academic year.⁵⁵ This change is a clarification over the previous version of the Act, which limited transportation to currently homeless students.⁵⁶ The amendments also guarantee that homeless students are able participate fully in both academic and extracurricular activities including summer schools, career and technical education, advanced placement, online learning and charter school programs.⁵⁷ ESSA additionally requires planning for how homeless youth will receive assistance from school counselors to prepare and improve their readiness for college.⁵⁸ The amendments went into effect July 1, 2016.⁵⁹

New York City Department of Education

DOE is the LEA responsible for implementing and coordinating McKinney-Vento Act educational requirements in New York City and ensuring that all services and programs offered by DOE are available to homeless children and youth. In addition to the Act, Chancellor's Regulations A-101 and A-780 contain policies to ensure that students residing in temporary living situations are able to enroll in school and have access to the same programs and services that are available to students with permanent residence.⁶⁰ The regulations also provide additional supports for students residing in temporary living situations, such as transportation and assistance from dedicated staff.⁶¹ The Students in Temporary Housing (STH) unit within the Office of Safety and Youth Development (OSYD) at DOE provides support and information to students and families on the rights of students in temporary housing.⁶²

DOE STH Staff

Each borough has at least one STH Content Expert, who supervises a team of Family Assistants.⁶³ The STH Content Expert acts as a liaison between school staff and families, and manages STH programs and services.⁶⁴ Family Assistants, who are located in some shelters and in some schools, work directly with homeless children and their parents to assist with educational issues such as enrollment, school records, transportation, and obtaining immunizations required to attend school.⁶⁵ Additionally, a small STH central team is responsible for the program citywide.⁶⁶ Finally, each school is asked to designate a school-based liaison to identify and support students in temporary housing throughout the school year.⁶⁷

⁵⁴ Every Student Succeeds Act, PL 114-95, Dec. 10, 2015, 129 Stat 1802; *see also* Nat'l Assoc. for the Education of Homeless Children and Youth, Statutory Language and Summary, Homelessness and Foster Care in "The Every Student Succeeds Act of 2015," *available at* <http://www.naehcy.org/sites/default/files/dl/legis/eseafinalsummary12-4.pdf>.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ New York City Department of Education, *Chancellor's Regulation A-780: Students in Temporary Housing*, updated 6/29/09, *available at* <http://schools.nyc.gov/NR/ronlyres/071ED78D-E983-4AA7-9E8D-46CB584F2C35/0/A780.pdf>; New York City Department of Education, *Chancellor's Regulation A-101: Admissions, Readmissions, Transfers, and List Notices for All Students*, updated Jan. 19, 2017, *available at* <http://schools.nyc.gov/NR/ronlyres/1CC25F63-74E8-41A6-8031-490F206F148D/0/A101asof20170123.pdf>.

⁶¹ *Id.*

⁶² DOE website, "Students in Temporary Housing," *available at* <http://schools.nyc.gov/StudentSupport/NonAcademicSupport/StudentsinTemporaryHousing/default.htm> (last visited Oct. 2, 2017).

⁶³ DOE, "McKinney-Vento Homeless Assistance Act Students in Temporary Housing Guide for Parents & Youth," revised 12/10/16, *available at* <http://schools.nyc.gov/NR/ronlyres/9831364D-E542-4763-BC2F-7D424EBD5C83/209217/McKinneyVentoActGuideforParentsYouthFY14.pdf> (last visited Oct. 2, 2017).

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ DOE, "School Allocation Memorandum No. 50, FY 2018: Attendance Improvement Dropout Prevention (AIDP) and Students in Temporary Housing (STH) Allocations," July 17, 2017, *available at* http://schools.nyc.gov/offices/d_chanc_oper/budget/dbor/allocationmemo/fy15_16/FY16_PDF/sam55.pdf (last visited Oct. 3, 2017).

⁶⁷ DOE, *Students in Temporary Housing Roles/Responsibilities*, *available at* <http://schools.nyc.gov/NR/ronlyres/714D6E24-A5D7-49AB-A6BD-EEB7CE5211A2/0/STHroles2014.pdf> (last visited Oct. 4, 2017).

Chancellor's Regulations

Chancellor's Regulation A-101 provides that students in temporary housing have the right to remain in their school of origin (or, in the relevant zoned school if, for example, moving from elementary school to middle school), if it is in the best interest of the child.⁶⁸ Regulation A-101 provides that students in temporary housing do not need to submit proof of address to enroll in school,⁶⁹ and outlines several factors to be considered in determining what is in the best interest of the child, including: the impact of moving schools on achievement, health, safety, and giving priority to the parent's and student's choice.⁷⁰

Chancellor's Regulation A-780 aims to ensure that homeless children receive the same programs and services as children with permanent residences.⁷¹ The regulation defines a homeless child as "a child, including a student with disabilities, who lacks a fixed, regular, and adequate nighttime residence,"⁷² and specifically includes a child who:

1. Is living with a friend, relative or someone else because their family lost their housing due to economic hardship, or a similar reason (referred to as "doubled up"), or is living in a motel, hotel, trailer park, or camping ground due to the lack of alternative adequate accommodations;
2. Is living in a subsidized publicly or privately operated shelter designed to provide temporary living accommodations (including commercial hotels, congregate shelters, and transitional housing for the mentally ill);
3. Is awaiting foster care placement;
4. Is living in a public or private place not designed for or ordinarily used as a regular sleeping accommodation; or
5. Is living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations or similar settings.⁷³

Chancellor's Regulation A-780 requires schools to conduct outreach to students living in temporary housing and their families. The regulation requires schools to display posters including information on the basic rights of homeless children, including information about STH liaisons.⁷⁴ In addition, it requires schools to have information sheets ("McKinney-Vento Act Guide for Parents & Youth") available in the office of the Parent Coordinator, and to provide the guide to parents in homeless shelters.⁷⁵

The regulation states that homeless students in NYC may attend either their school of origin or the school that is zoned for the address where the student is actually living (or a school for which other students living in that area are eligible), depending on which school is in the "best interest of the student."⁷⁶ The regulation expands on Regulation A-101 and states that the determination of what is in the best interest of the student will be based on factors including "the age of the student, the distance the student would have to commute to school, student safety issues, the student's need for special education . . . and the time remaining in the school year."⁷⁷ If feasible, and only if the student's parent chooses, a student will remain in his or her school of origin.⁷⁸ Schools must immediately enroll homeless students, may not deny

⁶⁸ DOE, *Chancellor's Regulation A-101: Admissions, Readmissions, Transfers, and List Notices for All Students*, updated Jan. 19, 2017, available at <http://schools.nyc.gov/NR/rdonlyres/1CC25F63-74E8-41A6-8031-490F206F148D/0/A101asof20170123.pdf> (last visited Oct. 3, 2017).

⁶⁹ Students in temporary housing may still be subject to an address investigation if there is suspicion that an address was falsified, but once an address has been verified, no additional documentation will be required. *Id.*

⁷⁰ *Id.*

⁷¹ DOE, *Chancellor's Regulation A-780: Students in Temporary Housing*, updated Jun. 29, 2009, available at <http://schools.nyc.gov/NR/rdonlyres/071ED78D-E983-4AA7-9E8D-46CB584F2C35/0/A780.pdf> (last visited Oct. 3, 2017).

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

enrollment due to missing documentation, and must, along with Family Assistants, provide assistance in finding missing documentation.⁷⁹

Regulation A-780 also provides that all homeless students are exempt from age and distance requirements and are eligible for free transportation while they are homeless.⁸⁰ For homeless students living in shelters, the Family Assistants, or STH Liaison will coordinate with the Office of Pupil Transportation (OPT) to determine if a yellow bus route is available for a student (unless the student needs specialized transportation).⁸¹ Homeless students in grades K-6 will also be provided yellow bus service if an appropriate route exists. Where an appropriate yellow bus travel route is not available, homeless students are eligible for a full fare Metrocard.⁸² Pre-K students are also entitled to free transportation; however, they are only eligible for MetroCards and not yellow bus service.⁸³ Parents of homeless students in grades Pre-K through six who receive a MetroCard for transportation to school are eligible for 14-day MetroCards in order to accompany their children to and from school.⁸⁴ The regulation specifies that once a student is entered into the system as eligible for bus service, OPT must arrange the service within five business days.⁸⁵ Although not included in the Chancellor's Regulation, in 2016, DOE began an initiative to expand yellow bus service for all students in grades K-6 who live in the DHS shelter system by adding 189 new bus routes and extending existing routes, providing pickups to an additional 2,500 students.⁸⁶

Finally, Chancellor's Regulation A-780 requires Family Assistants to meet with families residing in DHS shelters prior to the families moving into permanent housing, to provide support during the transition.⁸⁷ Homeless families not residing in DHS shelters can receive assistance from the STH Liaison in their borough as they move to permanent housing.⁸⁸ The regulation also requires that parents be informed that their children have the right to stay in their current schools through the last grade in that school (for example, through eighth grade in a middle school serving grades six to eight).⁸⁹

Funding for Services Provided to Homeless Students

Federal funding is available to help serve students who are homeless through the McKinney-Vento Act in the form of competitive grants administered by the New York State Education Department (NYSED). The program awards three-year grants to LEAs to facilitate the education of homeless children and youth.⁹⁰ New York City currently receives \$2,200,000 in grant funding for each of the 2016-2017, 2017-2018, and 2018-2019 school years.⁹¹

Additionally, under the McKinney-Vento Act, districts that receive federal Title I, Part A funds (allocated to schools serving low-income students) must comply with a mandatory set-aside of funds to serve homeless children.⁹² The Title I STH set-aside funds must be used primarily for services to aid the academic progress of homeless children and youth, but the funding may also be used to pay for supplies such as uniforms,

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ See New York City Council Committees on Education, and General Welfare, "DOE's Support for Students who are Homeless or in Temporary Housing," February 4, 2016, available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2554248&GUID=5520E3E3-56F4-4718-9B77-C7D39BBEAE87&Options=&Search=>, hearing transcript.

⁸⁷ DOE, *Chancellor's Regulation A-780: Students in Temporary Housing*, updated Jun. 29, 2009, available at <http://schools.nyc.gov/NR/rdonlyres/071ED78D-E983-4AA7-9E8D-46CB584F2C35/0/A780.pdf> (last visited Oct. 3, 2017).

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ New York State Technical and Education Assistance Center for Homeless Students (NYS-TEACHS), *2016-19 NYS McKinney-Vento Grant Program*, available at <http://www.nysteachs.org/info-topic/mvgrant.html> (last visited Oct. 2, 2017).

⁹¹ New York State Technical and Education Assistance Center for Homeless Students (NYS-TEACHS), *2013-16 NYS McKinney-Vento Grant Recipients*, available at <http://www.nysteachs.org/info-topic/mvgrant.html> (last visited Oct. 2, 2017).

⁹² DOE, "NCLB Mandatory Title I, Part A Set-Aside for Students in Temporary Housing: Frequently Asked Questions," updated 2014, available at <http://schools.nyc.gov/NR/rdonlyres/8D99859A-AE04-40EA-A462-5363F87E67E9/0/FAQTitleISetAsideFY14.pdf> (last visited Oct. 2, 2017).

counseling services, school supplies, outreach efforts and data collection, or even supplies such as books and glasses.⁹³ Title I funds cannot be used for items such as rent, or non-academic extracurricular activities.⁹⁴ Federal Department of Education guidelines state that schools are required to set aside a minimum of \$100 per student for each student living in temporary housing.⁹⁵

In addition to Title I funding, DOE allocates State Attendance Improvement Dropout/Prevention (AIDP) resources, in the amount of \$6.2 million in FY 2018, to support mandated services and programs for STH.⁹⁶ These resources support field based staff who work as liaisons between shelters and schools to ensure all mandated services under the McKinney-Vento Act are provided, including intervention support for students and their families, as well as attendance outreach.⁹⁷

DOE also oversees the Students in Shelter program, which provides additional supports in schools with the highest concentrations of students living in shelters. This program provides literacy support through after school tutoring in shelters and funds social workers in schools to provide homeless students with social-emotional, health and mental health services, as well as combat chronic absenteeism.⁹⁸ This program was first funded in the FY 2017 Executive Plan at \$10.3 million and continued in Fiscal 2018 at the same amount.⁹⁹ Funding is comprised of City tax levy funding for one year and is not baselined. The Administration is collecting performance data and will decide how to fund the program in the outyears based on data collection and feedback about the program.¹⁰⁰

The most recent amendment to DOE's Fiscal 2015-2019 Five-Year Capital Plan added \$19.5 million to create school-based health centers (SBHCs) in schools with high concentrations of students in temporary housing.¹⁰¹ Currently capital funding is allocated for four school buildings, with each project expected to be complete in Fall 2018.¹⁰²

Lastly, DOE has a new pilot in 22 community schools to address the needs of students in temporary housing. The pilot is supported with private funding and the Committees look forward to learning more about this initiative at the hearing.¹⁰³

The Department of Homeless Services

DHS provides temporary housing to homeless individuals and families in New York City. DHS shelters fall into three categories: single adults, adult families and families with children. In recent years, New York City has seen record levels of homelessness. By the end of calendar 2016, there were about 60,000 men, women, and children in DHS shelters at any one time.¹⁰⁴ About two-thirds of the people served were families with children.¹⁰⁵ Children under the age of 18 accounted for more than a third of the shelter population as a

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ DOE, "School Allocation Memorandum No. 08, FY 2018: Title I School Allocations," May 26, 2017, available at http://schools.nyc.gov/offices/d_chanc_oper/budget/dbor/allocationmemo/fy17_18/fy18_pdf/sam08.pdf.

⁹⁶ DOE, "School Allocation Memorandum No. 50, FY 2018: Attendance Improvement Dropout Prevention (AIDP) and Students in Temporary Housing (STH) Allocations," July 17, 2017, available at http://schools.nyc.gov/offices/d_chanc_oper/budget/dbor/allocationmemo/fy17_18/fy18_pdf/sam50.pdf.

⁹⁷ *Id.*

⁹⁸ The Council of the City of New York, "Report to the Committee on Finance and the Committee on Education on the Fiscal 2018 Executive Budget for the Department of Education," May 16, 2017, available at <http://council.nyc.gov/budget/wp-content/uploads/sites/54/2017/03/040-DOE-exec.pdf>.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ School Construction Authority, "FY2015-2019 Five Year Proposed Capital Plan Amendment," November 2016, at 21, available at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Capital-Plan-67>.

¹⁰² *Id.*

¹⁰³ New York City Community Schools Advisory Board Meeting, October 5, 2017, on file with committee.

¹⁰⁴ The City of New York, "Turning the Tide on Homelessness in New York City" (Feb. 23, 2017) at 11 available at <http://www1.nyc.gov/assets/dhs/downloads/pdf/turning-the-tide-on-homelessness.pdf> (last visited Oct. 3, 2017) (hereinafter "Turning the Tide report").

¹⁰⁵ *Id.*

whole, and more than half of the people served were in shelters for families with children.¹⁰⁶ There were more than 10,000 children in the shelter system five years old or younger.¹⁰⁷

The number of homeless individuals in New York City remains constant. As of October 3, 2017, there are 60,148 individuals living in shelters.¹⁰⁸ Of this population, there are 12,843 families with children, which comprises of 40,647 individuals, including 23,084 children.¹⁰⁹ The overall number of homeless families in the DHS shelter system has increased in recent years. In fact, the average number of families with children in shelters per day has steadily increased from 9,536 in Fiscal Year 2013 to 12,818 in Fiscal Year 2017.¹¹⁰ The average length of stay in a shelter for families with children in the DHS system has also increased over the past several years, from 375 days in Fiscal Year 2013 to 431 days in Fiscal Year 2016.¹¹¹ There was a slight decrease to 414 days in Fiscal Year 2017.¹¹²

It is important to note that DHS, unlike DOE, does not classify as homeless those who are sharing housing with other people due to loss of housing, economic hardship, or a similar reason, also known as “doubled up.”¹¹³ Therefore, data on the number of homeless children will vary depending on which definition is used. Nonetheless, there has been a significant increase in the overall number of homeless students in the City’s public school system over the past several years. During the 2015-2016 school year, nearly 100,000 homeless students attended New York City public schools, a 49% increase in six years,¹¹⁴ which includes approximately 33,000 school-aged children in shelters, and 60,000 living doubled up with other households.¹¹⁵ Further, the 33,000 students in the City’s public schools who lived in homeless shelters during the 2015-2016 school year was an increase of more than 4,000, or 15 percent, from the previous year.¹¹⁶

Every homeless family with children seeking shelter must first apply at DHS’ Prevention Assistance and Temporary Housing (PATH) intake center in the Bronx.¹¹⁷ Services at PATH are provided to families with children under 21, pregnant women, or families with pregnant women.¹¹⁸ Families whom DHS determines to have “safe and appropriate places to stay” are not eligible for shelter services.¹¹⁹ Families deemed eligible for shelter are then provided a shelter placement. DHS utilizes various types of transitional housing to shelter homeless families with children, including Tier II shelters,¹²⁰ hotels, and cluster sites, which are temporary transitional housing units located in apartment buildings where lease-holding tenants may also reside. Clients in all facilities receive case management services to assist them in locating permanent housing. Generally, DHS tries to place families in shelters within the same area as the family’s youngest child’s school of origin. During Fiscal 2017, 50.4% of families with children were placed in shelter according to the youngest school-aged child’s school address, below the target of 85%.¹²¹

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ DHS Daily Report, Oct. 3, 2017 (Data from Oct. 3, 2017) available at <http://www1.nyc.gov/assets/dhs/downloads/pdf/dailyreport.pdf> (last visited Oct. 4, 2017).

¹⁰⁹ *Id.*

¹¹⁰ Mayor’s Management Report Fiscal 2017, Dept. of Homeless Services, at 209, (September 2017) available at <http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2017/dhs.pdf> (last visited Oct. 3, 2017) (hereinafter “MMR FY17”).

¹¹¹ MMR FY17, *supra* note 110.

¹¹² *Id.*

¹¹³ DOE, *Chancellor’s Regulation A-780: Students in Temporary Housing*, updated 6/29/09, accessed at <http://schools.nyc.gov/NR/rdonlyres/071ED78D-E983-4AA7-9E8D-46CB584F2C35/0/A780.pdf>.

¹¹⁴ 2017 ICPH Report, *supra* note 3.

¹¹⁵ *Id.*

¹¹⁶ Pappas, L., New York City Independent Budget Office “As the Number of Students Living in Shelters Has Grown, Has The Increase Been Uniform Among Schools Across the City?,” available at <http://www.ibo.nyc.ny.us/iboreports/printnycbt73.pdf>, (last visited Oct. 3, 2017).

¹¹⁷ Department of Homeless Services, “Families with Children: Applying for Temporary Housing Assistance,” available at <https://www1.nyc.gov/site/dhs/shelter/families/families-with-children-applying.page> (last visited Oct. 3, 2017).

¹¹⁸ *Id.*

¹¹⁹ See Department of Homeless Services, *Welcome to PATH*, at 8 (on file with the Committee on General Welfare).

¹²⁰ According to New York State law, a Tier II facility “provides shelter and services to 10 or more homeless families including, at a minimum, private rooms, access to three nutritional meals a day, supervision, assessment services, health services, and child care services.” The New York City Administrative Code prohibits the use of Tier I shelters (which do not have private units), and further requires that Tier II shelters provide a bathroom, a refrigerator and cooking facilities and an adequate sleeping area within each unit within the shelter.

¹²¹ MMR FY17, *supra* note 110.

90-day Review

In December 2015, the Administration announced that it would conduct a 90-day review of DHS and the City's homeless programs, and issue recommendations by early 2016 regarding both the structure of the agency and ways to address the City's increase in homelessness.¹²² In April 2016, the Administration announced the results of its review, which included structural changes to DHS and 46 reforms, including the following two reforms with regard to homeless students:¹²³

- Target outreach to doubled-up families with school-aged children: HRA will work with DOE to identify and proactively target prevention services for students of families living in doubled-up situations who are reported as homeless under the McKinney-Vento Act.
- Eliminate the requirement for school-aged children to be present at PATH for multiple appointments: School-age children will no longer be required to be present with their families for multiple appointments in the shelter application process. (To be discussed further).

In June 2015 and 2016, the City's Human Resources Administration (HRA) and DHS partnered with DOE to reach out to schools and connect families in vulnerable living arrangements with homelessness prevention services.¹²⁴ At a General Welfare hearing in April 2017, Department of Social Services Commissioner Steven Banks testified that "planning [was] underway to implement this outreach annually beginning in June 2017, prior to the end of school when typically applications for family shelters increase."¹²⁵ Every summer, the number of homeless families in shelter spikes after children are out of school because parents are often reluctant to uproot their children in the middle of the school year,¹²⁶ and families' doubled up housing arrangements become harder to maintain.¹²⁷

Turning the Tide on Homelessness Plan

In February 2017, Mayor Bill de Blasio released a new plan to combat homelessness titled "Turning the Tide on Homelessness in New York City," (Turning the Tide) that would end the use of 360 cluster sites and commercial hotels by 2021 and 2023, respectively, and replace them with 90 traditional shelters distributed across the five boroughs, thus reducing the number of homeless shelters across the City by 45 percent.¹²⁸ This announcement builds on the reforms resulting from the 90-day review of homeless services.¹²⁹ The plan includes providing homeless families and individuals an opportunity to be in a shelter as close as possible to their own communities to maintain access to schools, jobs, health care, houses of worship and stay connected

¹²² Press Release, NYC Office of the Mayor, "City Announces Comprehensive Review of Homeless Service Agencies and Programs" (Dec. 14, 2015), available at <http://www1.nyc.gov/office-of-the-mayor/news/939-15/city-comprehensive-review-homeless-service-agencies-programs> (last visited Oct. 3, 2017).

¹²³ Review of Homeless Services Agencies and Programs (April 11, 2016) available at <http://www1.nyc.gov/assets/home/downloads/pdf/reports/2016/90-day-homeless-services-review.pdf> (hereinafter 90-Day Review) (last visited Oct. 3, 2017).

¹²⁴ Turning the Tide report, *supra* note 104.

¹²⁵ Testimony of Steven Banks, Commissioner of the Department of Social Services, before the Committee on General Welfare, "Oversight: Reforms to Homeless Services, One Year Later," (April 20, 2017) available at <http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=539353&GUID=4D15B5DD-6DF1-4693-B8BD-DEB12CBAC157&Options=info&Search=DEB12CBAC157&Options=info&Search=>

¹²⁶ Harris, E., "City Tries to Head Off Summer Surge in Homeless," *The New York Times*, (June 16, 2017) available at <https://www.nytimes.com/2017/06/16/nyregion/homeless-new-york.html?action=click&contentCollection=N.Y.%20%2F%20Region&module=RelatedCoverage®ion=Marginalia&pgtype=article> (last visited Oct. 3, 2017).

¹²⁷ Turning the Tide report, *supra* note 104.

¹²⁸ Office of the Mayor, Press Release, "De Blasio Administration Announces Plan to Turn the Tide on Homelessness with Borough-Based Approach; Plan Will Reduce Shelter Facilities by Forty Five Percent," (Feb. 28, 2017) available at <http://www1.nyc.gov/office-of-the-mayor/news/118-17/de-blasio-administration-plan-turn-tide-homelessness-borough-based#0> (last visited Oct. 4, 2017).

¹²⁹ *Id.*

to family.¹³⁰ It would also help them to get back on their feet and out of shelter more quickly.¹³¹ As previously mentioned, only half of families with children were placed in shelter according to the youngest school-aged child's school of origin. The de Blasio Administration purports that over time, borough-based shelter placement, provided through the "Turning the Tide" plan, will enable DHS to offer shelter placements for homeless families and individuals in their home borough.¹³²

Issues and Concerns

Recently, several entities have examined the effect of homelessness on children's schooling through data analysis, interviews, and focus groups. In October 2016, the IBO released a report, "Not Reaching the Door: Homeless Students Face Many Hurdles on the Way to School," (IBO report) which examined school absenteeism among homeless students.¹³³ For the report, the IBO conducted 100 interviews with DOE staff at 12 schools and held six focus groups with approximately 30 families living in shelter with school-age children.¹³⁴ In June 2017, Citizens' Committee for Children, Enterprise Community Partners, and New Destiny Housing convened the Family Homelessness Task Force (FHTF) and released a report, "Prioritizing Homeless Children and their Families," (FHTF report) in order "to call attention to the needs of homeless children and their families and to develop and advance recommendations to prevent and end family homelessness, while ensuring the well-being of families in shelter."¹³⁵ The FHTF was comprised of over 40 stakeholders and convened three focus groups of consumer participants.¹³⁶ Many of the issues and concerns discussed herein are based on the findings of these two reports.

Shelter Intake Process

As previously discussed, any family with children seeking shelter must go to the PATH intake facility in the Bronx to apply.¹³⁷ Families are typically provided with a conditional shelter placement for up to 10 days while DHS investigates the information provided during the family's initial intake interview to determine whether the household is eligible for shelter.¹³⁸ Families found ineligible for shelter may choose to appeal the decision.¹³⁹ A denied family has a right to a DHS legal conference, a State Fair Hearing, and the right to reapply.¹⁴⁰ In August 2017, of the 2,837 families who applied for shelter, 1,141 (40 percent) were found eligible.¹⁴¹ Further, of the eligible households, DHS found only 56.8% to be eligible after the first application; 20.7% were found eligible after their second application, and 22.6% were found eligible after submitting three to six applications.¹⁴² This data indicates that families may spend significant time in the intake process before moving into a permanent shelter.

¹³⁰ Testimony of Steven Banks, Commissioner of the Department of Social Services, before the Committees on Finance and General Welfare, Fiscal Year 2018 Executive Budget Hearing, May 15, 2017 (hereinafter "General Welfare FY2018 Executive Budget testimony") available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3028995&GUID=35473509-8D68-438D-8E6C-2A7B93F042D1&Options=&Search=>

¹³¹ *Id.* General Welfare FY2018 Executive Budget testimony.

¹³² MMR FY17, *supra* note 110.

¹³³ Independent Budget Office, "Not Reaching the Door: Homeless Students Face Many Hurdles on the Way to School," Oct. 2016, available at <http://www.ibo.nyc.ny.us/iboreports/not-reaching-the-door-homeless-students-face-many-hurdles-on-the-way-to-school.pdf> (hereinafter "IBO report").

¹³⁴ *Id.*

¹³⁵ "Prioritizing Homeless Children and Their Families, A Report and Recommendations Based on the Work of the Family Homelessness Task Force," June 2017, available at <https://www.cccnewyork.org/wp-content/uploads/2017/06/Family-Homelessness-Task-Force-Recommendations-Full-Report-June-2017.pdf> (hereinafter "FHTF report")

¹³⁶ *Id.*

¹³⁷ *See supra* note 104-132 and related text.

¹³⁸ NYC Dept. of Homeless Services, Families with Children: Applying for Temporary Housing Assistance, available at <https://www1.nyc.gov/site/dhs/shelter/families/families-with-children-applying.page>.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ Temporary Housing Assistance Usage Report (Local Law 37 of 2011), August 2017, available at http://www1.nyc.gov/assets/operations/downloads/pdf/temporary_housing_report.pdf.

¹⁴² *Id.* (9.3% submitted 3 applications, 6.0% submitted 4 applications, 3.4% submitted 5 applications and 3.9% submitted 6 applications.)

Until recently, during the application and investigation process, families were required to bring children to all appointments. As previously discussed, in the 90-day review DHS committed to “eliminate the requirement for school-age children to be present at PATH for multiple appointments.”¹⁴³ At a recent hearing of the General Welfare Committee, Commissioner Banks clarified that by the end of 2016, DHS had implemented this reform for families who reapply for shelter within 30 days, and by March 2017 for families who were reuniting with children exiting the foster care system at PATH.¹⁴⁴ Despite the reform, families are still required to have school age children present at the initial appointment.¹⁴⁵ According to Commissioner Banks, children must be present at the initial appointment so the agency has the “opportunity to evaluate the family.”¹⁴⁶ Advocates continue to express concern with this requirement, stressing that DHS can evaluate children through other means, and that the agency should prioritize allowing children to be in school.¹⁴⁷ Despite the rule change, parents in IBO’s focus groups reported “that they had not been explicitly told not to have their children present at subsequent appointments at PATH after the initial application” and that “they had no clear directions on what the application process would entail, or how long it would take.”¹⁴⁸

According to the parents in IBO’s focus groups, there is a lack of guidance on navigating the schooling process during the application and conditional placement periods.¹⁴⁹ DOE staff availability is extremely limited and meeting with that staff is not a required part of the intake process for parents of school-age children. None of the parents in the IBO focus groups had met with DOE staff at PATH during their intake process and further none had received any information about schooling options and rights by other PATH staff.¹⁵⁰

Living in Shelter

Pursuant to the McKinney-Vento Act, school-age children have the right to remain in their “school of origin” after moving into a homeless shelter.¹⁵¹ However, due to a lack of available capacity in the DHS system, families with children are frequently placed in shelters far from their home communities, leaving parents to choose between maintaining school stability or very long commutes to school. As of the second quarter of FY16 (the latest available data) there were 20,062 school-age children in families living in shelter.¹⁵² During the same period, only 52% of families were placed in a shelter in the same borough as the youngest school-aged child’s school.¹⁵³ This is a steep decline—in FY11, for example, more than 83% of families in DHS shelters were placed in shelters in the same borough as the schools attended by their youngest school-aged children.¹⁵⁴ This placement trend continued to decline in FY17, with only 50.4% of families placed in shelter according to their youngest school-aged child’s school address.¹⁵⁵ In the Turning the Tide report, the Administration committed to implementing a borough-based shelter system by opening 90 new shelters over the next five years, which it asserts would allow families to stay in their home communities, keeping children close to their schools.¹⁵⁶

¹⁴³ Review of Homeless Services Agencies and Programs, April 11 2016, *available at* <http://www1.nyc.gov/assets/home/downloads/pdf/reports/2016/90-day-homeless-services-review.pdf>

¹⁴⁴ Testimony of Steve Banks, Commissioner, before the Committee on General Welfare, “Oversight: Reforms to Homeless Services, One Year Later,” (April 20, 2017), hearing transcript p. 37.

¹⁴⁵ *Id.* at 151.

¹⁴⁶ *Id.*

¹⁴⁷ See testimony of Joshua Goldfein, before the Committee on General Welfare, “Oversight: Reforms to Homeless Services, One Year Later,” (April 20, 2017), hearing transcript p. 171.

¹⁴⁸ IBO report, *supra* note 133.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ 42 USCA § 11432

¹⁵² NYC Dept. of Homeless Services, Data Dashboard, Fiscal Year 2016, 2nd Quarter, *available at* http://www1.nyc.gov/assets/dhs/downloads/pdf/dashboard/tables/Schools-Tbls_Dbd-03162016-Q2.pdf

¹⁵³ *Id.*

¹⁵⁴ The Center for New York City Affairs, The New School, *The Troubling Geography of Homelessness: Shelter Locations and Family Stability*, (May 31, 2017), *available at* <http://www.centrernyc.org/shelter-locations-family-stability/>.

¹⁵⁵ Fiscal Year 2017 Mayor’s Management Report, Dept. of Homeless Services, *available at* <http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2017/dhs.pdf>.

¹⁵⁶ Turning the Tide report, *supra* note 104.

Related to the lack of available shelter capacity, homeless families are frequently transferred within the system to different shelters, leading to increased school transfers. Within DHS, the agency may transfer a family when a more appropriate unit becomes available or when the family requests the transfer.¹⁵⁷ Additionally, other shelter systems, such as HRA's system of domestic violence shelters and the Department of Youth and Community Development (DYCD) runaway and homeless youth shelters, are time limited and families who do not locate permanent housing before the time limits are reached often transfer into the DHS system.¹⁵⁸ In school year 2013-2014, 15.8% of students in temporary housing attended two or more schools, as opposed to only 4.4% of permanently housed students.¹⁵⁹ During the same period, almost 1,500 students, more than 5% of students in shelters attended three or more schools, compared to only 0.5% of permanently housed students.¹⁶⁰

Other aspects of life in shelter affect children's ability to attend and succeed in school. Families report that conflicting appointments with DHS and other agencies where families are required to attend appointments, such as the Human Resources Administration (HRA), often interfere with parents' ability to pick up children from school.¹⁶¹ Additionally, inspections of families' living quarters by shelter staff, which parents report often happen without warning and occur late at night or early in the morning, cause disruptions to children's sleep and school schedules.¹⁶² Parents further reported additional aspects of life in shelter as negative impediments to regular school attendance including a lack of access to laundry facilities, quality food, childcare, and an social services generally, particularly for families living in cluster sites.¹⁶³

Staffing

Another issue of concern for advocates is the number and availability of DOE staff dedicated to working with students in temporary housing at the PATH intake center, in shelters, and in borough offices. According to the FHTF report, there are approximately 115 Family Assistants and eight STH Content Experts serving students in temporary housing.¹⁶⁴ Thus, not every shelter with school-aged children is staffed by DOE.¹⁶⁵ Cluster sites and hotels do not have full-time DOE staff, so families placed there must make alternate arrangements to meet with DOE.¹⁶⁶

DOE currently has two staff members assigned to PATH,¹⁶⁷ and no DOE staff members are present at PATH in the evenings, on the weekends, or during the summer.¹⁶⁸ Similarly, many Family Assistants are only available at shelters on weekdays during the school year, and not during the summer.¹⁶⁹ The IBO's 2016 Report stated that not one of the 28 parents included in their focus groups reported having spoken to a DOE staff member or discussing their child's education with any DHS staff members at PATH.¹⁷⁰ According to the IBO's report, DOE STH staffing has remained constant since 2003, even as the population of homeless students has continued to grow.¹⁷¹

Transportation

Notwithstanding DOE's expansion of yellow bus service to all K-6 students living in shelters, transportation remains a significant area of concern. In particular, yellow bus service is not provided to such students while their families are in the conditional approval period, which advocates say for most families lasts

¹⁵⁷ IBO report, *supra* note 133.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ FHTF report, *supra* note 135.

¹⁶⁵ IBO report, *supra* note 133.

¹⁶⁶ *Id.*

¹⁶⁷ DOE is currently in the final stages of hiring a third staff person at PATH.

¹⁶⁸ FHTF report, *supra* note 135.

¹⁶⁹ *Id.*

¹⁷⁰ IBO report, *supra* note 133.

¹⁷¹ *Id.*

three to five weeks.¹⁷² Although MetroCards are available while bus service is being coordinated, families are required to return to borough offices each week to receive a new card.¹⁷³ Moreover, several steps are required to arrange bus transportation. First, families must make a transportation request, then the student's information in DOE's Automate the Schools (ATS) system must be updated, the shelter code and request for transportation are made to OPT, which verifies the shelter address and arranges transportation.¹⁷⁴ This process can reportedly take weeks after a family is placed in a new shelter.¹⁷⁵

Furthermore, transportation continues to remain an issue more generally for students in temporary housing who do not reside in shelters and who live far distances from their schools. School staff who participated in focus groups for the IBO report stated that MetroCards, while available, are not a viable form of transportation for young students or students traveling long distances.¹⁷⁶ For parents who are eligible to receive MetroCards to accompany their children to school, school staff report that because cluster sites and hotels do not have full-time DOE staff, these parents have difficulty receiving the MetroCards, as they must arrange to pick up the card from alternative locations such as borough offices.¹⁷⁷ According to the IBO, OPT's data on transportation services provided to students is incomplete, as student information in ATS is not regularly updated.¹⁷⁸ OPT also reported to IBO that DHS does not consider effects on student transportation when determining where to place families in shelter.¹⁷⁹

In-school Supports

Once they have navigated the enrollment process and arrived at school, students who reside in temporary housing require additional supports. Homeless students have a higher risk of having witnessed or experienced violence, physical or sexual assault, and other trauma resulting from being separated from family members.¹⁸⁰ Homeless students also have a higher risk of mental illness.¹⁸¹ These experiences can often affect students' academic performance.¹⁸² Teachers, administrators and other school staff, however, report that they are not trained on how to work with students who have experienced trauma.¹⁸³ Principals participating in the IBO's focus groups expressed the need for specific training on working with students who are dealing with housing instability, and teachers likewise expressed a desire for training on how to support their students emotionally.¹⁸⁴

Schools additionally lack adequate numbers of guidance counselors, and full-time guidance counselors generally must dedicate their time to working with students whose individualized education plans (IEP) mandate counseling services.¹⁸⁵ Thus, students without IEPs who may need support because of their living situations often are not able to meet with counselors.¹⁸⁶

Finally, students who live in temporary housing who are also English language learners (ELL), or who are students with disabilities, face additional educational hurdles.¹⁸⁷ For example, evaluations for special education services, or services mandated by a student's IEP may be delayed when a child moves to a new school.¹⁸⁸ According to the IBO, almost 30% of students who live in shelters receive special education services pursuant to an IEP, and 33% of students who reside in doubled-up housing are ELLs.¹⁸⁹

¹⁷² FHTF report, *supra* note 135.

¹⁷³ *Id.*

¹⁷⁴ IBO report, *supra* note 133.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ FHTF report, *supra* note 135.

¹⁸¹ *Id.*

¹⁸² *Id.*

¹⁸³ IBO report, *supra* note 133.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

Inter-Agency Coordination

Advocates have also expressed concern about a lack of agency coordination between DOE and DHS, including DHS not providing notice to DOE when a new shelter opens and ongoing issues with integrating data systems.¹⁹⁰ Additionally, the roles and responsibilities of each agency for tracking and improving student attendance and collecting data, and are not understood clearly by staff, and communication between shelter staff and school staff is reportedly lacking.¹⁹¹

Students Displaced by Hurricane Maria

Finally, the Committees are interested in learning more about the DOE's plans for the potential arrival of students from the U.S. Virgin Islands and Puerto Rico as a result of Hurricane Maria. On September 19, 2017, Hurricane Maria made landfall on the U.S. Virgin Islands as a category 5 hurricane.¹⁹² The following day it made landfall in Puerto Rico as a category 4.¹⁹³ Both islands suffered catastrophic damage and states of emergency were declared.¹⁹⁴ While assessments of damage are still ongoing, initial reports indicate infrastructure damage is severe and power outages are widespread and anticipated to last for months.¹⁹⁵ Undoubtedly, many of those affected will seek to relocate in other parts of the United States.¹⁹⁶

It is hard to ascertain how many people will relocate and to where, the population of the United States Virgin Islands is relatively small in comparison to Puerto Rico. New York City has a sizable Puerto Rican population and a strong connection to the island. There could likely be a large number of Puerto Ricans seeking refuge with family members already here. It is safe to assume that of those being displaced among them will be school-age children. According to a memo sent to public school families by the DOE, they are "ready to assist in enrolling school-age children in the City's public schools from pre-kindergarten through high school."¹⁹⁷

Like other displaced or homeless students, enrollment will only be part of the issue. Services for English Language Learners, social/emotional support and providing resources such as school supplies will be needed. The DOE states it is closely monitoring the situation and ready to take appropriate actions.¹⁹⁸

Bill Analysis

Analysis of Int. No. 1497-A - A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report on students in temporary housing

Since its initial hearing, the bill has received several amendments including removing requirements regarding reporting on federal funding and aligning reporting requirements with how DOE and DHS track information.

Section one of Int. No. 1497-A would create a new chapter in Title 21-A, entitled "Reporting on Students in Temporary Housing," and would provide the following definitions: "borough of origin" would mean the

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² See, e.g. Robinson Meyer, "What's Happening with the Relief Effort in Puerto Rico? A Timeline of the Unprecedented Catastrophe of Hurricane Maria," *The Atlantic*, <https://www.theatlantic.com/science/archive/2017/10/what-happened-in-puerto-rico-a-timeline-of-hurricane-maria/541956/>.

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ See, e.g., Joseph De Avila and Arian Campo-Flores, "School Systems Prepare for Puerto Rican Students," *Wall Street Journal*, Oct. 2, 2017, <https://www.wsj.com/articles/school-systems-prepare-for-puerto-rican-students-1506950024?tesla=y>.

¹⁹⁷ Memo from Mayor De Blasio and Chancellor Farina to DOE parents, dated September 28, 2017.

¹⁹⁸ Joseph De Avila and Arian Campo-Flores, "School Systems Prepare for Puerto Rican Students," *Wall Street Journal*, Oct. 2, 2017, <https://www.wsj.com/articles/school-systems-prepare-for-puerto-rican-students-1506950024?tesla=y>. ("Officials with New York City schools, the largest district in the U.S., with 1.1 million students, have been meeting regularly to prepare for the arrival of Puerto Rican evacuees")

borough in which a student attended school when permanently housed or the borough of the school in which the student was last enrolled; “school” would mean a school of the city school district of the city of New York; “student” would mean any pupil under the age of twenty-one as of September first of the academic period being reported, who does not have a high school diploma and who is enrolled in a school as school is defined in this subdivision, not including a pre-kindergarten student or a preschool child as defined in section 4410 of the State education law; “sharing the housing of others” would mean individuals who have reported to the department that they are living with other persons due to loss of housing, economic hardship or a similar reason; and “students in temporary housing” would have the same meaning as that of the term “homeless children and youths” as defined in subsection 2 of section 11434a of title 42 of the United States code, provided that such individuals are enrolled in a school.

Section one of the bill would require the DOE to submit to the Council and post on its website by November 1st each year, beginning in 2018, a report for the preceding school year regarding information on students in temporary housing. The bill would require the report to include the following information: (i) the total number of students in temporary housing, as reported to the department, disaggregated by school, and further disaggregated by the number of students residing in a shelter and the number of students sharing the housing of others; the number of students residing in a shelter would be further disaggregated by shelter operator; (ii) the number of students residing in shelters operated by DHS who remain enrolled in a school in their borough of origin; (iii) the total number of students residing in shelters operated by DHS who have transferred to a different school; (iv) the total number of students in temporary housing receiving metro cards; (v) the total number of students in temporary housing receiving busing; (vi) the percentage of students in temporary housing citywide; (vii) the attendance rate of students in temporary housing; (viii) the retention rate of students in temporary housing; and (ix) the dropout rate of students in temporary housing.

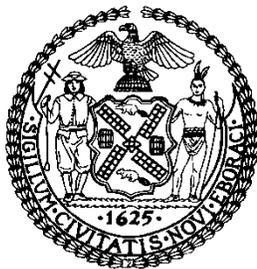
Section one of the proposed bill would further state that no information required to be reported would be reported in manner that would violate any applicable federal, state or local law regarding the privacy of student information or that would conflict with law enforcement. The bill would also state that if a category contains between 1 and 5 students, or contains an amount that would allow the amount of another category that is 5 or less to be deduced, the number would be replaced with a symbol.

Section two of the bill would provide that the local law would take effect immediately.

Update

On December 18, 2017, the Committee passed Int. No. 1497-A by a vote of thirteen in the affirmative, zero in the negative, with zero abstentions.

(The following is the text of the Fiscal Impact Statement for Int. No. 1497-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO.: 1497-A

COMMITTEE: Education

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report on students in temporary housing

SPONSORS: Salamanca, Johnson, Levin, Cohen and Menchaca

SUMMARY OF LEGISLATION: Proposed Intro. No. 1497-A would require the Department of Education (DOE), in consultation with and as provided by the Department of Homeless Services (DHS), the Department of Social Services/Human Resources Administration (HRA), the Department of Youth and Community Development (DYCD), and the Department of Housing Preservation and Development (HPD), as necessary, to submit to the Council and publish online an annual report on or before November 1st of each year (with the first report due by November 1, 2018) on students in temporary housing. The report would include information such as the number of students living in shelter, disaggregated by shelter operator, the number of students living doubled-up in shared housing, the number of students in a DHS shelter who remain enrolled in a school in their borough of origin, the number of students who transfer to a different school, information on MetroCard and busing usage, and the attendance, retention, and dropout rates of students in temporary housing.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
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: It is anticipated that this legislation would have no impact on expenditures as DOE can use existing resources to implement the provisions of the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: None

SOURCE OF INFORMATION: New York City Finance Division; New York City Department of Education

ESTIMATE PREPARED BY: Elizabeth Hoffman, Principal Financial Analyst

ESTIMATE REVIEWED BY: Dohini Sompura, Unit Head
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council on March 1, 2017 as Intro. No. 1497 and was referred to the Committee on Education (the Committee). On October 11, 2017, the Committee, along with the Committee on General Welfare, held a hearing on Intro. No. 1497, and the bill was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1497-A, will be voted on by the Committee on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1497-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 12, 2017.

Accordingly, the Committee recommended its adoption, as amended.

(The following is the text of Int. No. 1497-A:)

Int. No. 1497-A

By Council Members Salamanca, Johnson, Levin, Cohen, Menchaca, Kallos, Chin, Dromm and Barron.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report on students in temporary housing

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 chapter 20 to title 21-A to read as follows:

Chapter 20. Reporting on Students in Temporary Housing

§ 21-987 a. For the purposes of this section, the following terms have the following meanings:

Borough of origin. The term "borough of origin" means the borough in which a student attended school when permanently housed or the borough of the school in which the student was last enrolled.

School. The term "school" means a school of the city school district of the city of New York.

Student. The term "student" means any pupil under the age of twenty-one as of September first of the academic period being reported, who does not have a high school diploma and who is enrolled in a school as school is defined in this subdivision, not including a pre-kindergarten student or a preschool child as defined in section 4410 of the education law.

Sharing the housing of others. The term "sharing the housing of others" means individuals who have reported to the department that they are living with other persons due to loss of housing, economic hardship or a similar reason.

Students in temporary housing. The term "students in temporary housing" has the same meaning as that of the term "homeless children and youths" as defined in subsection 2 of section 11434a of title 42 of the United States code, provided that such individuals are enrolled in a school.

b. Not later than November 1, 2018, and annually thereafter on or before November 1, the department shall, in consultation with and as provided by the department of homeless services, the department of social services/human resources administration, the department of youth and community development and the department of housing preservation and development, as necessary, submit to the council and post online a report regarding information on students in temporary housing for the preceding school year. Such report shall include, but not be limited to, the following information:

1. The total number of students in temporary housing, as reported to the department, disaggregated by school, and further disaggregated by:

(a) the number of students who are residing in a shelter, disaggregated by whether students are residing in shelters operated by (i) the department of homeless services, (ii) the department of social services/human resources administration, (iii) the department of youth and community development and (iv) the department of housing preservation and development; and

(b) the number of students sharing the housing of others;

2. The number of students residing in shelters operated by the department of homeless services who remain enrolled in a school in their borough of origin;

3. The total number of students residing in shelters operated by the department of homeless services who have transferred to a different school;

4. The total number of students in temporary housing receiving metrocards;

5. The total number of students in temporary housing receiving busing;

6. The percentage of students in temporary housing citywide;

7. The attendance rate of students in temporary housing;

8. The retention rate of students in temporary housing; and

9. The dropout rate of students in temporary housing.

c. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 1 and 5 students, or contains a number that would allow the number of individuals in another category that is five or fewer to be deduced, the number shall be replaced with a symbol.

§ 2. This local law takes effect immediately.

DANIEL DROMM, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, ANDY L. KING, INEZ D. BARRON, MARK LEVINE, ALAN N. MAISEL, HELEN K. ROSENTHAL, MARK TREYGER; BEN KALLOS,.; Committee on Education, December 18, 2017. *Other Council Members Attending: Council Member Cumbo.*

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. 1604-A

Report of the Committee on Education in favor of approving and adopting, as amended, a Local Law to amend the New York city charter, in relation to the collection of gender pronoun information.

The Committee on Education, to which the annexed proposed amended local law was referred on May 10, 2017 (Minutes, page 1334), respectfully

REPORTS:

Introduction

On December 18, 2017, the Committee on Education, chaired by Council Member Daniel Dromm, considered Int. No. 1604-A, sponsored by Council Member Mendez. A hearing was previously held on this bill on December 7, 2017. At that hearing, representatives from the Department of Education (DOE), unions, parents, advocates, and other members of the public were invited to testify. On December 18, 2017, the Committee passed Int. No. 1604-A by a vote of twelve in the affirmative, zero in the negative, with one abstention.

Int. No. 1604-A - Bill Analysis

The proposed bill has received several amendments since its initial hearing, including clarifying that the Mayor may designate an office or agency other than the Mayor's Office of Operations or the Mayor's Office of Immigrant Affairs as the office or agency responsible for implementing the requirements of the proposed bill.

Section one of the proposed bill would amend subdivisions i, j, and k of section 15 of chapter 1 to clarify that the Mayor may designate an office or agency other than the Mayor's Office of Operations as the office or agency responsible for implementing the requirements of those subdivisions.

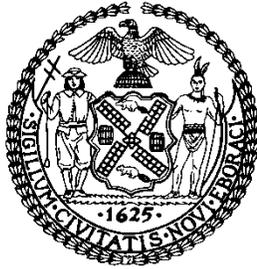
Section one of the proposed bill would additionally require an office or agency designated by the Mayor to review the official forms of certain city agencies to determine whether they are eligible for updating to include voluntary questions regarding individuals' gender pronouns and, if so eligible, to update such forms. The agencies would include the Department of Social Services, the Administration for Children's Services, the Department of Homeless Services, the Department of Health and Mental Hygiene, the Department for the Aging, the Department for Youth and Community Development, the DOE and any other agencies designated by the Mayor that collect demographic information.

Section two of the bill would provide that the law would take effect immediately.

Update

On December 18, 2017, the Committee passed Int. No. 1604-A by a vote of twelve in the affirmative, zero in the negative, with one abstention.

(The following is the text of the Fiscal Impact Statement for Int. No. 1604-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

**PROPOSED INTRO. NO.: 1604-A
COMMITTEE: Education**

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the collection of gender pronoun information

SPONSORS: Mendez, Dromm, Menchaca, Torres, Van Bramer, Johnson, Vacca, Cumbo, Perkins, Rosenthal, Constantinides, Salamanca, Palma, Levin, Chin, Williams, Richards, Levine, Reynoso, Koslowitz, Kallos, Crowley, Cabrera, Garodnick, Espinal, Lander, Treyger, Rodriguez, Rose, Grodenchik, Ferreras-Copeland and Ulrich

SUMMARY OF LEGISLATION: Proposed Intro. 1604-A would require the Mayor’s Office of Operations, or other agency designated by the Mayor, to review official forms used by the Department of Social Services, the Administration for Children’s Services, the Department of Homeless Services, the Department of Health and Mental Hygiene, the Department for the Aging, the Department for Youth and Community Development, the Department of Education, and any other agencies designated by the Mayor that collect demographic information, and determine whether such forms are eligible for updating to include voluntary questions regarding individuals’ gender pronouns. Additionally, if such forms are eligible, the legislation requires that such forms be updated accordingly.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
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: It is anticipated that this legislation would have no impact on expenditures as existing resources can be used to implement the provisions of the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: None

SOURCE OF INFORMATION: New York City Finance Division; New York City Department of Education

ESTIMATE PREPARED BY: Elizabeth Hoffman, Principal Financial Analyst

ESTIMATE REVIEWED BY: Dohini Sompura, Unit Head
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1604 on May 10, 2017 and was referred to the Committee on Civil Rights. . On December 4, 2017, this legislation was re-referred to the Committee on Education (the Committee). The Committee held a hearing on Intro No. 1604 on December 7, 2017, and the bill was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. 1604-A, will be voted on by the Committee on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1604-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 12, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1604-A:)

Int. No. 1604-A

By Council Members Mendez, Dromm, Menchaca, Torres, Van Bramer, Johnson, Vacca, Cumbo, Perkins, Rosenthal, Constantinides, Salamanca, Palma, Levin, Chin, Williams, Richards, Levine, Reynoso, Koslowitz, Kallos, Crowley, Cabrera, Garodnick, Espinal, Lander, Treyger, Rodriguez, Rose, Grodenchik, Ferreras-Copeland and Ulrich.

A Local Law to amend the New York city charter, in relation to the collection of gender pronoun information

Be it enacted by the Council as follows:

Section 1. Subdivisions i, j, and k of section 15 of chapter 1 of the New York city charter, subdivision i as added by local law number 126 for the year 2016, subdivision j as added by local law number 127 for the year 2017, and subdivision k as added by local law 128 for the year 2016, are amended to read as follows:

i. 1. The department of social services, the administration for children's services, the department of homeless services, the department of health and mental hygiene, the department for the aging, the department for youth and community development, the department of education and any other agencies designated by the mayor that directly or by contract collect demographic information via form documents from city residents seeking social services shall provide all persons seeking such services with a standardized, anonymous and

voluntary demographics information survey form that contains questions regarding ancestry and languages spoken.

2. The questions shall include options allowing respondents to select from:

(a) at least the top 30 largest ancestry groups and languages spoken in the city of New York based on data from the United States census bureau; and

(b) "other," with an option to write in a response.

3. Such survey form shall be created by the office of operations and office of immigrant affairs, *or such offices or agencies as may be designated by the mayor*, and may be updated as deemed necessary by those agencies based on changing demographics.

4. Beginning no later than six months after the effective date of [this local law] *the local law that added this subdivision*, and annually thereafter, the office of operations, *or the office or agency designated by the mayor*, shall conduct a review of all forms issued by the agencies described in paragraph 1 of this subdivision and any other agencies so designated by the mayor that: collect demographic information addressing the questions contained on the survey form, are completed by persons seeking services and contain content and/or language in relation to collecting such information that is within the administering city agency's authority to edit or amend. The office of operations, *or the office or agency designated by the mayor*, shall submit to the council, within 60 days of such review, a list of all forms reviewed and all forms eligible for updating, and for forms not eligible for updating an explanation of why such forms are not eligible for updating, and indicate which forms shall be updated. When practicable, when such forms are updated they shall request voluntary responses to questions about ancestry and languages spoken. All forms identified as eligible for updating during the review required pursuant to this paragraph shall be updated to invite responses to questions about ancestry and languages spoken no later than five years from the effective date of the local law that added this [section] *subdivision*. All forms not eligible for updating shall be provided in conjunction with the standardized, anonymous and voluntary demographics information survey form as established by *paragraph 1 of subdivision i*, paragraph 1] of this [local law] *section*.

5. Beginning no later than 18 months after the effective date of [this] *the local law that added this subdivision*, and annually thereafter, the office of operations, *or the office or agency designated by the mayor*, shall make available to the public data for the prior fiscal year that includes but is not limited to the total number of individuals who have identified their ancestry or languages spoken on the survey form described in paragraph 1 of this subdivision and any forms updated pursuant to paragraph 4 of this subdivision, disaggregated by response option, agency and program. Such data shall be made available to the public through the single web portal provided for in section 23-502 of the administrative code.

6. Each agency that provides the survey form required pursuant to paragraph 1 of this subdivision shall evaluate its provision of services in consideration of the data collected pursuant to this [local law] *subdivision* and the office of operations, *or the office or agency designated by the mayor*, shall submit to the council a report on any new or modified services developed by any agencies based on such data. Such report shall be submitted no earlier than 18 months after the effective date of the local law that added this paragraph.

7. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of information respecting students and families serviced by the New York city department of education. If any category requested contains between 1 and 5, or allows another category to be narrowed to between 1 and 5, the number shall be replaced with a symbol

j. 1. The department of social services, the administration for children's services, the department of homeless services, the department of health and mental hygiene, the department for the aging, the department for youth and community development, the department of education and any other agencies designated by the mayor that directly or by contract collect demographic information via form documents from city residents seeking social services shall provide all persons seeking such services with a standardized, anonymous and voluntary demographic information survey form that contains an option for multiracial ancestry or ethnic origin. Such survey form shall be created by the office of operations and office of immigrant affairs, *or such offices or agencies as may be designated by the mayor*, and may be updated as deemed necessary by those agencies based on changing demographics.

2. Beginning no later than six months after the effective date of [this] *the local law that added this subdivision*, and annually thereafter, the office of operations, *or an office or agency designated by the mayor*,

shall conduct a review of all forms issued by the agencies described in paragraph 1 of this subdivision and any other agencies so designated by the mayor that: collect demographic information addressing the questions contained on the survey form, are completed by persons seeking services and contain content and/or language in relation to collecting such information that is within the administering city agency's authority to edit or amend. The office of operations, *or the office or agency designated by the mayor*, shall submit to the council, within 60 days of such review, a list of all forms reviewed and all forms eligible for updating, and for forms not eligible for updating an explanation of why such forms are not eligible for updating, and indicate which forms shall be updated. When practicable, the office of operations, *or the office or agency designated by the mayor*, shall ensure that when such forms are updated they shall request voluntary responses to questions about multiracial ancestry or ethnic origin. All forms identified as eligible for updating during the review required pursuant to this paragraph shall be updated to invite responses to questions about multiracial ancestry or ethnic origin no later than five years from the effective date of the local law that added this [section] *subdivision*. All forms not eligible for updating shall be provided in conjunction with the standardized, anonymous and voluntary demographics information survey form as established by *paragraph 1 of subdivision j*, paragraph 1] of this [local law] *section*.

3. Beginning no later than 18 months after the effective date of [this] *the local law that added this subdivision*, and annually thereafter, the office of operations, *or the office or agency designated by the mayor*, shall make available to the public data for the prior fiscal year that includes but is not limited to the total number of individuals who have identified their multiracial ancestry or ethnic origin on the survey form described in paragraph 1 of this subdivision and any forms updated pursuant to paragraph 4 of this subdivision, disaggregated by response option, agency and program. Such data shall be made available to the public through the single web portal provided for in section 23-502 of the administrative code.

4. Each agency that provides the survey form required pursuant to paragraph 1 of this subdivision shall evaluate its provision of services in consideration of the data collected pursuant to this [local law] *subdivision* and the office of operations, *or the office or agency designated by the mayor*, shall submit to the council a report on any new or modified services developed by any agencies based on such data. Such report shall be submitted no earlier than 18 months after the effective date of the local law that added this paragraph.

5. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of information respecting students and families serviced by the New York city department of education. If any category requested contains between 1 and 5, or allows another category to be narrowed to between 1 and 5, the number shall be replaced with a symbol.

k. 1. The department of social services, the administration for children's services, the department of homeless services, the department of health and mental hygiene, the department for the aging, the department for youth and community development, the department of education and any other agencies designated by the mayor that directly or by contract collect demographic information via form documents from city residents seeking social services shall provide all persons seeking such services who are either at least 14 years old or identify as the heads of their own households with a standardized, anonymous and voluntary demographics information survey form that contains questions regarding sexual orientation, including heterosexual, lesbian, gay, bisexual or asexual status or other, with an option to write in a response and gender identity, including transgender, cisgender or intersex status or other, with an option to write in a response.

2. Such survey form shall be created by the office of operations and office of immigrant affairs, *or such offices or agencies as may be designated by the mayor*, and may be updated as deemed necessary by those agencies based on changing demographics.

3. No later than 60 days after the effective date of [this] *the local law that added this subdivision*, the office of operations shall submit to the mayor and the speaker of the city council a plan to provide a mandatory training program and develop a manual for agency staff on how to invite persons served by such agencies to complete the survey. Such training and manual shall include, but not be limited to, the following:

- (a) an overview of the categories of sexual orientation and gender identity;
- (b) providing constituents the option of completing the survey in a private space and filling out any paperwork without oral guidance from city agency staff;
- (c) explaining to constituents that completing the survey is voluntary;

(d) explaining to constituents that any data collected from such survey will not be connected to the individual specifically; and

(e) discussions regarding addressing constituents by their self-identified gender.

4. Beginning no later than six months after the effective date of [this] *the local law that added this subdivision*, and annually thereafter, the office of operations, *or the office or agency designated by the mayor*, shall conduct a review of all forms issued by the agencies described in paragraph 1 of this subdivision and any other agencies so designated by the mayor that: collect demographic information addressing the questions contained on the survey form, are completed by persons seeking services and contain content and/or language in relation to collecting such information that is within the administering city agency's authority to edit or amend. The office of *operations, or the office or agency designated by the mayor*, shall submit to the council within 60 days of such review, a list of all forms reviewed and all forms eligible for updating, and for forms not eligible for updating an explanation of why such forms are not eligible for updating, and indicate which forms shall be updated. When practicable, when such forms are updated they shall request voluntary responses to questions about sexual orientation, including heterosexual, lesbian, gay, bisexual or asexual status, or other[, and]; gender identity, including transgender, cisgender and intersex status or other; *and the gender pronoun or pronouns that an individual identifies with and that others should use when talking to or about that individual*. All forms identified as eligible for updating during the review required pursuant to this paragraph shall be updated to invite responses to questions about sexual orientation [and], *gender identity and the gender pronoun or pronouns that an individual identifies with and that others should use when talking to or about that individual* no later than five years from the effective date of the local law that added this [section] *subdivision*. All forms not eligible for updating shall be provided in conjunction with the standardized, anonymous and voluntary demographics information survey form as established by *paragraph 1 of subdivision k*[, paragraph 1] of this [local law] *section*.

5. Beginning no later than 18 months after the effective date of [this] *the local law that added this subdivision*, and annually thereafter, the office of operations, or the office or agency designated by the mayor, shall make available to the public data for the prior fiscal year that includes but is not limited to the total number of individuals who have identified their sexual orientation or gender identity on the survey form described in paragraph 1 of this subdivision and any forms updated pursuant to paragraph 4 of this subdivision, disaggregated by response option, agency and program. Such data shall be made available to the public through the single web portal provided for in section 23-502 of the administrative code.

6. Each agency that provides the survey form required pursuant to paragraph 1 of this subdivision shall evaluate its provision of services in consideration of the data collected pursuant to this local law and the office of operations shall submit to the council a report on any new or modified services developed by any agencies based on such data. Such report shall be submitted no earlier than 18 months after the effective date of the local law that added this paragraph.

7. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of information respecting students and families serviced by the New York city department of education. If any category requested contains between 1 and 5, or allows another category to be narrowed to between 1 and 5, the number shall be replaced with a symbol.

§ 2. This local law takes effect immediately.

DANIEL DROMM, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, INEZ D. BARRON, MARK LEVINE, ALAN N. MAISEL, HELEN K. ROSENTHAL, MARK TREYGER; BEN KALLOS; Committee on Education, December 18, 2017. *Other Council Members Attending: Council Member Cumbo.*

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. 54-A

Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the use of alternative fuels and alternative fuel technologies in the city ferry fleet.

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on February 26, 2014 (Minutes, page 395), respectfully

REPORTS:

I. INTRODUCTION

On December 18, 2017, the Committee on Environmental Protection, chaired by Council Member Costa Constantinides, held a hearing for the purposes of conducting a vote on seven bills. **Int. No. 54-A** would require a study on the feasibility of using alternative fuels and alternative fuel technologies in the city ferry fleet. The Committee previously held a hearing on this bill on January 13, 2015, and received testimony from the New York City Department of Transportation, New York City Department of Environmental Protection (“DEP”), industry representatives, advocacy organizations and interested members of the public. **Int. No. 880-A** would require a review of the types and models of buses that are used pursuant to existing school bus contracts and their compatibility with biodiesel blends, and the mode of fueling by school bus contractors. The Committee previously held a hearing on this bill on October 26, 2015, and received testimony from Mayor’s Office of Sustainability, industry representatives, advocacy organizations and interested members of the public.

Int. No. 717-A would require reporting on idling complaints and their dispositions, and would increase the award for citizen enforcement. The Committee previously held a hearing on this bill on September 27, 2016, and received testimony from DEP, advocacy organizations and interested members of the public.

Int. No. 978-D would establish minimum standards for carrying out mold assessment, mold abatement and mold remediation for certain buildings. The Committee previously held a hearing on this bill on May 2, 2017, and received testimony from DEP, elected officials, labor unions, advocacy organizations and interested members of the public.

Int. No. 1629-A requires that the Department of Buildings (“DOB”) propose amendments to make the City’s energy code match the “model stretch energy code” created by the New York State Energy Research and Development Authority (“NYSERDA”). **Int. No. 1632-A** would require that owners of larger buildings obtain an energy efficiency score and grade for such building and post it in a conspicuous place. The Committee previously held a hearing on these bills on June 27, 2017, and received testimony from the Mayor’s Office of Sustainability, advocacy organizations and interested members of the public. **Int. No. 1653-B** would require the DEP Commissioner to set rules for specific time frames for inspections in response to certain types of noise complaints. The Committee previously held a hearing on this bill on September 25, 2017, and received testimony from the DEP, advocacy organizations and interested members of the public.

On November 29, 2017, the Committee on Environmental Protection held a hearing for the purposes of conducting a vote on **Int. No. 1465-A**, which would require use of cleaner heating oil for in-city power plants. The Committee previously held a hearing on Int. No. 1465 on April 24, 2017, and received testimony from the Mayor’s Office of Sustainability and representatives from energy companies and advocacy groups.

More information about these bills is available with the materials for each hearing, which can be accessed online at <http://legistar.council.nyc.gov/>.

II. INT. NO. 54-A

Int. No. 54-A would require that the Commissioner study the feasibility of using alternative fuels, including at least 5% biodiesel, renewable diesel and alternative fuel technologies including hybrid electric,

battery electric and fuel cell electric power trains. The Commissioner must submit a report on the results of the study by December 2019 and then, to the fullest extent practicable, implement the use of such alternative fuels or technologies.

III. INT. NO. 717-A

Int. No. 717-A would require reporting on idling complaints and their dispositions. It would also increase the award for citizen enforcement of idling complaints from an amount which “shall not exceed 25%” of proceeds collected to 25% of such proceeds where the department of environmental protection brings the proceeding. Finally this legislation requires the department to publish on its website the best practices for filing citizen complaints and gathering documentation.

IV. INT. NO. 880-A

Int. No. 880-A would require a review of the types and models of buses that are used pursuant to existing school bus contracts and their compatibility with biodiesel blends. This bill would also require review of the mode of fueling by school bus contractors including in-house, retail or fuel truck, the supply availability of biodiesel for each mode of fueling for the use of biodiesel. The results of the study would be communicated to the Mayor and The Speaker by June 30, 2019.

V. INT. NO. 978-D

Int. No. 978-D would establish minimum standards for carrying out mold assessment, mold abatement and mold remediation for buildings that contain 10 or more dwelling units or is located on a zoning lot that contains 25,000 or more square feet of non-residential floor area.

VI. INT. NO. 1629-A

Int. No. 1629-A requires that, during the 2019 and 2022 energy code revision cycle, Department of Buildings (DOB) will submit proposed amendments to make the City’s energy code match the “model stretch energy code” created by the New York State Energy Research and Development Authority (NYSERDA). Further, in the 2025 code revisions cycle (and future revision cycles), DOB will include in its proposed amendments energy performance targets for larger buildings.

VII. INT. NO. 1632-A

Int. No. 1632-A would require that property owners post the information about a building’s energy efficiency in a conspicuous place, make the information publicly available on line and audit the information annually involving appropriate sample sizes.

VIII. INT. NO. 1653-B

Int. No. 1653-B would require the Department of Environmental Protection (DEP) to adopt rules governing the times for inspection after a noise complaint and to report on responses to noise complaints. It would also lower the permissible noise levels from construction when an after-hours variance is in effect. Finally, it would authorize submission of an alternative noise mitigation plan when all reasonable mitigation measures have been implemented and noise levels still exceed the limit imposed by the Code.

IX. INT. NO. 1465-A

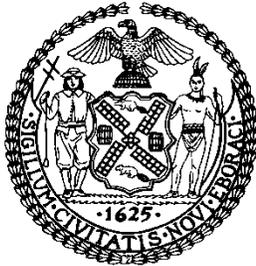
Int. No. 1465-A would accelerate the timeline for such plants to shift from using higher grade fuel oil (e.g. fuel oil grade number 6 or 4) to lower grade fuel oil (fuel oil grade number 2). Currently, power plants can burn fuel oil grade number 6 until 2020 and fuel oil grade number 4 until 2030. Under this bill, plant owners

would have the option of either (1) continuing to burn fuel oil grade number 6 until 2021, but switching immediately thereafter to fuel oil grade number 2 or (2) switching from fuel oil grade number 4 to fuel oil grade number 2 by 2025 (instead of 2030).

X. UPDATE

On December 18, 2017, the Committee adopted Int. No. 54-A, Int. No. 717-A, Int. No. 880-A, Int. No. 978-D, Int. No. 1629-A, Int. No. 1632-A and Int. No. 1653-B. On November 29, 2017, the Committee adopted Int. No. 1465-A. Accordingly, the Committee recommends the adoption of this legislation.

(The following is the text of the Fiscal Impact Statement for Int. No. 54-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 54-A

COMMITTEE: ENVIRONMENTAL PROTECTION

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the use of alternative fuels and alternative fuel technologies in the city ferry fleet

SPONSORS: By Council Members Constantinides, Cornegy, Koo, Palma, Rose, Kallos, Deutsch, Vacca, Dromm, Richards, Koslowitz, Rosenthal, Van Bramer, Treyger, King, Mendez, Levin, Gentile, Rodriguez, Crowley, Williams, Levine, Chin, Maisel, Gibson, Johnson, Garodnick, Torres, Espinal, Mealy, Miller, Cohen, Reynoso, Vallone, Barron, Lander and Ferreras-Copeland

SUMMARY OF LEGISLATION: Proposed Intro. No. 54-A would require the Commissioner of the Department of Transportation (DOT) to study the feasibility of utilizing in city ferries alternative fuels, including at least five percent biodiesel, renewable diesel and alternative fuel technologies including hybrid electric, battery electric and fuel cell electric power trains. In addition, the DOT would be required to submit to the Mayor and the Speaker of the Council, and post online, a report on the results of the study by December 2019 and then, to the fullest extent that the Commissioner determines practicable, implement the use of such alternative fuels or technologies.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated 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 the enactment of this legislation because DOT would use existing resources to implement the provisions of the bill.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division

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

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, Finance Division
 Crilhien Francisco, Unit Head, Finance Division
 Eric Bernstein, Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 54 on February 26, 2014 and was referred to the Committee on Transportation. The legislation was then re-referred to the Committee on Environmental Protection (Committee) on April 2, 2014. The Committee held a hearing on the legislation on January 13, 2015, and the legislation was laid over. The legislation was subsequently amended, and the Committee will consider the amended legislation, Proposed Intro. No. 54-A, at a hearing on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 54-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

(For text of Int. No. 54-A, please see below; for text of the remaining bills and their Fiscal Impact Statements, please see, respectively, the Reports of the Committee on Environmental Protection for Int. Nos. 717-A, 880-A, 978-D, 1629-A, 1632-A, 1653-B, and 1465-A printed in these Minutes)

Accordingly, this Committee recommends its adoption of Int. Nos. 54-A, 717-A, 880-A, 978-D, 1629-A, 1632-A, 1653-B, and 1465-A.

(The following is the text of Int. No. 54-A:)

Int. No. 54-A

By Council Members Constantinides, Cornegy, Koo, Palma, Rose, Kallos, Deutsch, Vacca, Dromm, Richards, Koslowitz, Rosenthal, Van Bramer, Treyger, King, Mendez, Levin, Gentile, Rodriguez, Crowley, Williams, Levine, Chin, Maisel, Gibson, Johnson, Garodnick, Torres, Espinal, Mealy, Miller, Cohen, Reynoso, Vallone, Barron, Lander, Ferreras-Copeland and Menchaca.

A Local Law to amend the administrative code of the city of New York, in relation to the use of alternative fuels and alternative fuel technologies in the city ferry fleet

Be it enacted by the Council as follows:

Section 1. Paragraph (1) of subdivision a of section 19-307 of the administrative code of the city of New York, as added by local law number 3 for the year 2008, is amended to read as follows:

(1) "City ferry" means any motorized watercraft that is used as a means of commuter passenger mass transportation by water that is owned or operated by *or on behalf of* the city [of New York].

§ 2. Section 19-307 of the administrative code of the city of New York is amended by adding a new subdivision k to read as follows:

k. The commissioner shall conduct a study to determine the feasibility of utilizing in city ferries (i) alternative fuels, which shall include but need not be limited to the combustion of biodiesel of at least five percent biodiesel by volume (B5) and up to 20 percent biodiesel by volume (B20) and renewable diesel and (ii) alternative fuel technologies, which shall include but need not be limited to hybrid electric, battery electric and fuel-cell electric power trains. The study shall include a review of the types and classes of ferries used and planned to be used and, as applicable, their compatibility with the alternative fuels and alternative fuel technologies studied, the availability of such fuels and technologies, the mixing and storage of such fuels and technologies and other relevant issues including barriers, opportunities and regulatory requirements related to the use of such fuels and technologies in city ferries. No later than December 31, 2019, the commissioner shall electronically submit to the mayor and the speaker of the council, and make publicly available online, a report detailing the findings of this study with recommendations relating to the use of alternative fuels and technologies in city ferries and shall thereafter, to the fullest extent the commissioner determines to be practicable based upon such report, implement the use of such fuels or technologies in city ferries.

§ 3. This local law takes effect immediately.

COSTA G. CONSTANTINIDES, *Chairperson*; RORY I. LANCMAN, ERIC A. ULRICH; Committee on Environmental Protection, December 18, 2017. *Other Council Members Attending: Council Members Kallos and Garodnick.*

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. 717-A

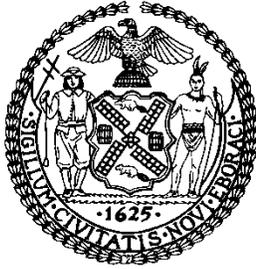
Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to civil penalties for idling infractions and enforcement through citizen complaints.

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on March 11, 2015 (Minutes, page 816), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int. No. 54-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 717-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 717-A

COMMITTEE: ENVIRONMENTAL PROTECTION

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to civil penalties for idling infractions and enforcement through citizen complaints

SPONSORS: By Council Members Rosenthal, Richards, Chin, Constantinides, Levine, Palma, Reynoso, Koslowitz and Menchaca

SUMMARY OF LEGISLATION: Proposed Intro. No. 717-A would require annual reporting to the Council on idling complaints and their dispositions. In addition, this legislation would increase the award for citizen enforcement of idling complaints from an amount which “shall not exceed 25 percent” of proceeds collected to 25 percent of such proceeds where the Department of Environmental Protection (DEP) brings the proceeding. Lastly, this bill would require DEP to publish on its website, on or before January 1, 2019, best practices for filing citizen complaints and gathering documentation.

EFFECTIVE DATE: This local law would take effect 30 days after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: Although this legislation contemplates the imposition of civil penalties, 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 the enactment of this legislation because the DEP and any other relevant agencies would use existing resources to implement the provisions of the bill.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division

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

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, Finance Division
Crielhien Francisco, Unit Head, Finance Division
Eric Bernstein, Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 717 on March 11, 2015 and was referred to the Committee on Environmental Protection (Committee). The Committee considered the legislation at a hearing on September 27, 2016, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 717-A will be considered by the Committee on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 717-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 717-A:)

Int. No. 717-A

By Council Members Rosenthal, Richards, Chin, Constantinides, Levine, Palma, Cornegy, Reynoso, Koslowitz, Menchaca, Lander and Miller.

A Local Law to amend the administrative code of the city of New York, in relation to civil penalties for idling infractions and enforcement through citizen complaints

Be it enacted by the Council as follows:

Section 1. Section 24-163 of the administrative code of the city of New York, as amended by local law number 38 for the year 2015, is amended to read as follows:

(g) A report shall be submitted to the city council on an annual basis by: (1) the [environmental control board] *office of administrative trials and hearings pursuant to section 1049-a of the charter* that states the number of notices of violation [issued] for engine idling violations [returnable to the environmental control board] *filed with such office*, 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; (3) *the department of environmental protection that states the number of 311 idling complaints, disaggregated by borough and including any other information related to such complaints the department deems relevant; and (4) the department of environmental protection that states the number of complaints received by the department of environmental protection pursuant to subdivision (a) of section 24-182 regarding violations of this section, disaggregated by the following: (i) the number of violations issued by the department pursuant to such complaints and (ii) the number of complaints filed pursuant to subdivision (b) of section 24-182 with the office of administrative trials and hearings pursuant to section 1049-a of the charter.*

§ 2. The row setting the minimum and maximum penalties for violations of 24-163 in the TABLE OF CIVIL PENALTIES following subparagraph (i) of paragraph (3) of subdivision (a) of section 24-178 of the administrative code of the city of New York, as added by local law number 38 for the year 2015, is amended to read as follows:

24-163	[200] 350	2000
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§ 3. Section 24-182 of the administrative code of the city of New York, as amended by local law number 38 for the year 2015, is amended to read as follows:

§ 24-182 Citizen's complaint. (a) Any *natural* person, other than personnel of the department and other 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 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] *file with the office of administrative trials and hearings pursuant to section 1049-a of the charter*, a notice of violation in a form prescribed by [the board] *such office* within forty-five days from service of such complaint if[;]:

(1) The department has failed to serve a notice of violation, pursuant to the rules of the *environmental control board within the office of administrative trials and hearings*, 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 *provide notice to the department at the time of commencement and 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] *office of administrative trials and hearings pursuant to section 1049-a of the charter* 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] *such office* shall award, out of the proceeds collected, fifty percent of any civil penalty as fair and reasonable compensation to such person.

(f) *On or before January 1, 2019, the department shall publish on the city's website information related to best practices for filing citizen complaints pursuant to this section. Such information shall include but need not be limited to guidance on procedures for filing such complaints and for gathering supporting documentation.*

§ 4. This local law takes effect 30 days after it becomes law.

COSTA G. CONSTANTINIDES, *Chairperson*; RORY I. LANCMAN, ERIC A. ULRICH; Committee on Environmental Protection, December 18, 2017. *Other Council Members Attending: Council Members Kallos and Garodnick.*

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. 880-A

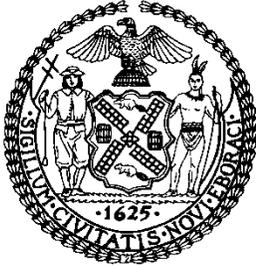
Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the use of biodiesel fuel in school buses.

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on August 13, 2015 (Minutes, page 3179), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int. No. 54-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 880-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 880-A

COMMITTEE: ENVIRONMENTAL PROTECTION

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the use of biodiesel fuel in school buses

SPONSORS: By Council Members Rosenthal, Richards, Constantinides, Koo, Rose and Kallos

SUMMARY OF LEGISLATION: Proposed Int. No. 880-A would require the Chancellor of the New York City Department of Education (DOE) and the Commissioner of the Department of Citywide Administrative Services (DCAS) to conduct a study of the types and models of buses that are used pursuant to existing school bus contracts and their compatibility with biodiesel blends. In addition, this bill would require review of the mode of fueling by school bus contractors including in-house, retail or fuel truck, the supply availability of biodiesel for each mode of fueling for the use of biodiesel, and other relevant issues including barriers, opportunities, and regulatory requirements. Finally, the results of the study, with recommendations, would be submitted to the Mayor and the Speaker of the Council by June 30, 2019.

EFFECTIVE DATE: This local law takes effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated 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 the enactment of this legislation because DOE and DCAS will use existing resources to implement the provisions of the bill.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division

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

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, Finance Division
 Crilhien Francisco, Unit Head, Finance Division
 Eric Bernstein, Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 880 on August 13, 2015 and was referred to the Committee on Environmental Protection (Committee). The Committee considered the legislation at a hearing on October 26, 2015, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 880-A will be considered by the Committee on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 880-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 880-A:)

Int. No. 880-A

By Council Members Rosenthal, Richards, Constantinides, Koo, Rose, Kallos and Menchaca.

A Local Law to amend the administrative code of the city of New York, in relation to the use of biodiesel fuel in school buses

Be it enacted by the Council as follows:

Section 1. The section heading of section 24-163.9, as amended by local law number 38 for the year 2015, is amended to read as follows:

§ 24-163.9 Retrofitting [of and], age limitations [on] *and fuel use of diesel fuel-powered school buses.*

§ 2. Section 24-163.9 of the administrative code of the city of New York is amended by adding a new subdivision k to read as follows:

k. (i) Diesel fuel-powered school buses shall be powered by fuel that is ultra low sulfur diesel fuel.

(ii) The chancellor of the New York city department of education and the commissioner of citywide administrative services shall conduct a study to determine the feasibility of utilizing at least five percent

biodiesel (B5) and up to twenty percent biodiesel (B20) by volume in city contracted diesel fuel-powered buses used for pupil and school transportation. The study shall include a review of the types and models of buses that are used pursuant to existing school bus contracts and their compatibility with biodiesel blends; the mode of fueling by school bus contractors including in-house, retail or fuel truck; supply availability of biodiesel for each mode of fueling for the use of biodiesel in school buses; and other relevant issues including barriers, opportunities, and regulatory requirements related to the use of biodiesel in buses used pursuant to school bus contracts. No later than June 30, 2019, the chancellor of the department of education and the commissioner of citywide administrative services shall submit a report to the mayor and the speaker of the council detailing the findings of this study with recommendations relating to the use of biodiesel blends of at least five percent (B5) and up to twenty percent (B20) by volume in city contracted diesel fuel-powered buses used for pupil and school transportation.

§ 3. This local law takes effect immediately.

COSTA G. CONSTANTINIDES, *Chairperson*; RORY I. LANCMAN, ERIC A. ULRICH; Committee on Environmental Protection, December 18, 2017. *Other Council Members Attending: Council Members Kallos and Garodnick.*

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. 978-D

Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to mold assessment, mold abatement and mold remediation for certain buildings.

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on October 29, 2015 (Minutes, page 3892), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int. No. 54-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 978-D:



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
 LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 978-D

COMMITTEE: ENVIRONMENTAL PROTECTION

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to mold assessment, mold abatement and mold remediation for certain buildings

SPONSORS: By Council Members Torres, Constantinides, Mendez, Richards, Treyger, Dromm, Gentile, King, Koo, Palma, Rose, Crowley, Miller, Rosenthal, Lancman, Maisel, Lander, Johnson, Menchaca, Van Bramer, Rodriguez, Levine, Kallos, Salamanca, Ferreras-Copeland, Cornegy, Barron, Koslowitz, Cohen, Levin, Grodenchik, Espinal, Reynoso, Gibson, Eugene, Vallone, Cumbo, Cabrera, Williams, Garodnick, Perkins, Chin, Vacca, Deutsch, Borelli, Ulrich and the Public Advocate (Ms. James)

SUMMARY OF LEGISLATION: Proposed Int. No. 978-D would establish minimum standards for carrying out mold assessment, mold abatement and mold remediation for buildings that contain 10 or more dwelling units or are located on a zoning lot that contains 25,000 or more square feet of non-residential floor area. Additionally, the legislation would establish penalties for violations of the provisions of the local law or rules promulgated thereunder.

EFFECTIVE DATE: This local law would take effect January 1, 2019, except that prior to such date the Mayor may designate administrating agencies and the head of such designated agencies may take such actions are as necessary for the implementation of this local law, including the promulgation of rules.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: Although this legislation contemplates the imposition of civil penalties, 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 the enactment of this legislation because the assigned agencies would use existing resources to implement the provisions of the bill.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division

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

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, Finance Division
 Crilhien Francisco, Unit Head, Finance Division
 Eric Bernstein, Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 978, and was referred to the Committee on Consumer Affairs. The legislation was re-referred to the Committee on Environmental Protection (Committee) on February 5, 2016, and was subsequently amended. The Committee, along with the Committee on Public Housing, held a hearing on the amended legislation, Proposed Intro. No. 798-A, and the legislation was laid over. The legislation was subsequently amended twice, and the latest amended legislation, Proposed Intro. No. 978-D, will be considered by the Committee on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 978-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 978-D:)

Int. No. 978-D

By Council Members Torres, Constantinides, Mendez, Richards, Treyger, Dromm, Gentile, King, Koo, Palma, Rose, Crowley, Miller, Rosenthal, Lancman, Maisel, Lander, Johnson, Menchaca, Van Bramer, Rodriguez, Levine, Kallos, Salamanca, Ferreras-Copeland, Cornegy, Barron, Koslowitz, Cohen, Levin, Grodenchik, Espinal, Reynoso, Gibson, Eugene, Vallone, Cumbo, Cabrera, Williams, Garodnick, Perkins, Chin, Vacca, Deutsch, Borelli, Ulrich and the Public Advocate (Ms. James).

A Local Law to amend the administrative code of the city of New York, in relation to mold assessment, mold abatement and mold remediation for certain buildings

Be it enacted by the Council as follows:

Section 1. 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 24-154 to read as follows:

§ 24-154 *Mold abatement and remediation work for certain buildings. a. As used in this section, the terms “mold abatement,” “mold assessment” and “mold remediation” shall have the meanings ascribed to such terms in section 930 of the labor law; the term “dwelling unit” shall have the meaning ascribed to such term in the housing maintenance code; the terms “floor area” and “zoning lot” shall have the meaning ascribed to such terms in the New York city zoning resolution and:*

Administering agency. The term “administering agency” means the agency or agencies designated by the mayor pursuant to subdivision f to administer and enforce the provisions of this section.

Covered building. The term “covered building” means a building that (i) contains ten or more dwelling units or (ii) is located on a zoning lot that contains 25,000 or more square feet of non-residential floor area.

Covered person. The term “covered person” means, with respect to a building, a person who is an owner of such building, a managing agent of such building or an employee of such owner or agent.

Project. The term “project” means mold remediation, mold assessment or mold abatement, of areas greater than ten square feet, but does not include full demolition of vacant buildings.

Non-residential floor area. The term “non-residential floor area” means, for a zoning lot, the amount of commercial floor area, office floor area, retail floor area, storage floor area and factory floor area, according

to records of the department of finance and department of city planning.

b. For a covered building:

1. No covered person for such building may perform mold assessment, abatement or remediation for a project for such building.

2. Mold assessment, abatement or remediation for a project for such building shall be performed (i) by a person licensed to perform such work pursuant to article 32 of the labor law and (ii) in compliance with the requirements set forth in such article and any other applicable laws or rules.

c. 1. Except as provided in paragraph 3, no later than two business days before the commencement of mold remediation for a project for a covered building, the person holding a mold remediation license pursuant to article 32 of the labor law who performs such remediation shall provide the administering agency with a notice, in a form and manner established by such agency, containing the following information:

(a) The name of such person and the number or other designation identifying such person's license issued under such article;

(b) The address of such building;

(c) The name of the person on whose behalf such work was performed;

(d) The dates that such work is to be performed;

(e) A copy of the mold remediation work plan prepared in accordance with section 946 of the labor law for such project;

(f) A certification that such work was performed and such plan was prepared in compliance with article 32 of the labor law; and

(g) Such other information as such agency may require by rule.

2. No later than seven days after completion of a post-remediation assessment pursuant to section 947 of the labor law, the person holding a mold assessment license pursuant to article 32 of the labor law who prepares such post-remediation assessment shall provide the administering agency with a notice, in a form and manner established by such agency, containing the following information:

(a) The name of such person and the number or other designation identifying such person's license issued under such article;

(b) The address of such building;

(c) The name of the person on whose behalf such post-remediation assessment was performed;

(d) The dates that such post-remediation assessment was performed;

(e) A copy of such post-remediation assessment;

(f) A certification that such post-remediation assessment was performed in compliance with article 32 of the labor law; and

(g) Such other information as such agency may require by rule.

3. Notwithstanding the requirements of paragraphs 1 and 2, the notices required by such paragraphs for a project may be provided to the administering agency no later than 24 hours after commencement of mold remediation in connection with such project if:

(a) Such project is subject to an order issued by a court that requires such project to be completed within 30 or fewer days; or

(b) The condition that such project is intended to correct poses either an immediate risk of harm to any person or damage to property, or both, pursuant to rules established by the administering agency in conjunction with the department of health and mental hygiene, the department of buildings and the department of housing preservation and development.

4. No later than 24 hours after receiving information provided pursuant to this subdivision, the administering agency shall make such information publicly available online.

d. Violations. 1. Civil penalties under this section may be recovered by the administering agency in an action in any court of appropriate jurisdiction or in a proceeding before the office of administrative trials and hearings acting pursuant to section 1049-a of the New York city charter.

2. If such court or office finds that a person has violated any provision of this section or rule promulgated thereunder, such court or office shall, in addition to any other relief such court or office determines to be appropriate, impose a civil penalty of up to \$1,000 for a first violation, up to \$5,000 for a second violation and up to \$10,000 for a third or subsequent violation.

3. Notwithstanding paragraph 2, if such court or office finds that an owner of a covered building has

violated any provision of this section or rule promulgated thereunder, such court or office shall, in addition to any other relief such court or office determines to be appropriate, impose a civil penalty of (i) for a first violation relating to such building, up to the greater of \$1,000 or 20 cents per square foot of gross floor area in such building, (ii) for a second violation, up to the greater of \$5,000 or 30 cents per square foot of gross floor area in such building and (iii) for a third or subsequent violation, up to the greater of \$10,000 or 40 cents per square foot of gross floor area in such building.

e. The requirements of this section shall not apply to buildings owned or operated by the New York city housing authority.

f. The mayor shall, in writing, designate one or more agencies to administer and enforce the provisions of this section and may, from time to time at the mayor's discretion, change such designation. Within 10 days after such designation or change thereof, a copy of such designation or change thereof shall be published on the city's website and on the website of each such agency, and shall be electronically submitted to the speaker of the council.

§ 2. This local law takes effect January 1, 2019, except that, before such effective date, (i) the mayor may designate administering agencies in accordance with subdivision f of section 24-154, as added by this local law, and (ii) the head of such designated agencies may take such actions as are necessary for implementation of this local law, including the promulgation of rules.

COSTA G. CONSTANTINIDES, *Chairperson*; RORY I. LANCMAN, ERIC A. ULRICH; Committee on Environmental Protection, December 18, 2017. *Other Council Members Attending: Council Members Kallos and Garodnick.*

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. 1629-A

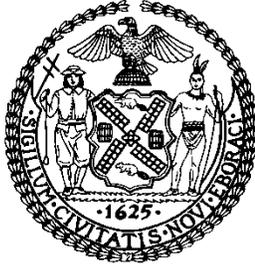
Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring periodic recommendations on adoption of more stringent energy efficiency requirements for certain buildings.

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on June 6, 2017 (Minutes, page 1851), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int. No. 54-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1629-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 1629-A

COMMITTEE: ENVIRONMENTAL PROTECTION

TITLE: A LOCAL LAW to amend the administrative code of the city of New York, in relation to requiring periodic recommendations on adoption of a more stringent energy efficiency requirements for certain buildings

SPONSORS: By Council Members Constantinides, Richards, Johnson, Treyger, Levin, Rosenthal, Chin, Salamanca, Cohen, Menchaca, Gentile and Kallos

SUMMARY OF LEGISLATION: Proposed Int. No. 1629-A would require that, during the 2019 and 2022 energy code revision cycle, the Department of Buildings (DOB) submit proposed amendments to make the City’s energy code match the “model stretch energy code” created by the New York State Energy Research and Development Authority (NYSERDA). Further, in the 2025 code revisions cycle (and future revision cycles), DOB would be required to include in its proposed amendments energy performance targets for larger buildings.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated 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 the enactment of this legislation because DOB will use existing resources to implement the provisions of the bill.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division

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

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, Finance Division
Crielhien Francisco, Unit Head, Finance Division
Eric Bernstein, Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1629 on June 6, 2017 and was referred to the Committee on Environmental Protection (Committee). The Committee considered the legislation at a hearing on June 27, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 1629-A, will be considered by the Committee on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1629-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1629-A:)

Int. No. 1629-A

By Council Members Constantinides, Richards, Johnson, Treyger, Levin, Rosenthal, Chin, Salamanca, Cohen, Menchaca, Gentile and Kallos.

A Local Law to amend the administrative code of the city of New York, in relation to requiring periodic recommendations on adoption of more stringent energy efficiency requirements for certain buildings

Be it enacted by the Council as follows:

Section 1. Section 28-1001.1.1 of the administrative code of the city of New York, as amended by local law number 125 for the year 2016, is amended to read as follows:

§ 28-1001.1.1 [Definition] Definitions. As used in this [chapter, the] *chapter*:

ASHRAE 90.1-2013. *The term “ASHRAE 90.1-2013” means the 2013 edition of the energy standard for buildings except low-rise residential buildings, standard reference number 90.1-2013, published by the American society of heating, refrigerating and air conditioning engineers (ASHRAE).*

COVERED BUILDING. *The term “covered building” has the same meaning as set forth in section 28-309.2.*

NEW YORK STATE ENERGY CODE. *The term “New York State Energy Code” means the New York State Energy Conservation Construction Code (the “New York State Energy Code”), constituting part 1240 of title 19 of the New York codes, rules and regulations (19 NYCRR Part 1240), and the publications incorporated by reference in such part, promulgated on September 21, 2016, by the State Fire Prevention and Building Code Council pursuant to Article 11 of the New York State Energy Law.*

PREDICTED ENERGY USE. *For a building, the amount of energy that is expected to be used at the premises of such building based upon the design of such building as filed by an applicant with the department for approval.*

PREDICTED ENERGY USE TARGET. *For each type of buildings, as such types correspond to the prototypes set forth in ASHRAE 90.1-2013, a maximum allowable predicted energy use of such buildings that are new buildings or existing buildings undergoing substantial reconstruction, as determined pursuant to this article.*

SUBSTANTIAL RECONSTRUCTION. *The term “substantial reconstruction” means any alteration or improvement of an existing building, if such work involves alteration of 40 percent or more of the building envelope and any two of the following, within a period of 12 months: (i) replacement of the equipment that provides heating capacity, including service hot water to 50 percent or more of the building floor area; (ii) replacement of the equipment that provides cooling capacity to 50 percent or more of the building floor area; or (iii) replacement of 50 percent or more of the connected lighting load; provided that before the commissioner submits to the city council proposed amendments to this code that establish predicted energy use targets pursuant to section 28-1001.3.4, the New York city energy conservation code advisory committee established pursuant to section 28-1001.3.2 may recommend, and the commissioner may include in such amendments, an alternative definition of this term, including a definition that varies based on building type.*

§ 2. Chapter 10 of title 28 of the administrative code of the city of New York is amended by adding new sections 28-1001.3.3 and 28-1001.3.4 to read as follows:

§ 28-1001.3.3 Stretch energy code. *For proposed amendments to this code submitted by the commissioner to the city council pursuant to section 28-1001.3.1, the commissioner, after receiving the advice and recommendations of the New York city energy conservation code advisory committee established pursuant to section 28-1001.3.2, shall for such amendments due to be submitted to the city council in 2019 and in 2022:*

1. *Submit to the city council proposed amendments to this code to bring this code up to date with the most recent model stretch code published by the New York state energy research and development authority, provided that such model stretch code is more stringent than the New York State Energy Code in effect when such proposed amendments are submitted and provided further that such model stretch code was first published no more than three years before such proposed amendments are submitted;*
2. *If no such model stretch code exists at the time such proposed amendments are to be submitted, (i) submit to the city council proposed amendments to this code to ensure that the predicted energy use of buildings designed and constructed in compliance with this code is, on average, expected to be no greater than 80 percent of the predicted energy use of such buildings if such buildings were designed and constructed in minimum compliance with ASHRAE 90.1-2013 or the New York State Energy Code, as such term was defined on December 1, 2017, and (ii) if the New York State Energy Code in effect when such proposed amendments are submitted includes a prescriptive compliance path, include in such proposed amendments a prescriptive compliance path to the extent that the commissioner determines such a path to be practicable under applicable federal and state law and rules and such other concerns as such advisory committee determine to be relevant; or*
3. *If no such model stretch code exists and the commissioner determines that proposed amendments to this code to achieve compliance with item 2 would render the design and construction of buildings impracticable or unduly burdensome, (i) submit to the city council proposed amendments to ensure that the predicted energy use of buildings designed and constructed in compliance with this code is, to the greatest extent practicable, on average, less than the predicted energy use of such buildings if such buildings were designed and constructed in minimum compliance with ASHRAE 90.1-2013 or the New York State Energy Code, as such term was defined on December 1, 2017, provided that, together with such proposed amendments, the commissioner shall submit a report describing why proposed amendments to achieve compliance with such item would render the design and construction of buildings impracticable or unduly burdensome and the estimated percentage by which the average predicted energy use of buildings designed and constructed in compliance with this code would be less than the average predicted energy use of such buildings if such buildings were designed and constructed in minimum compliance with ASHRAE 90.1-2013 or the New York State Energy Code, as such term was defined on December 1, 2017, and (ii) if the New York State Energy Code in effect when such proposed amendments are submitted includes a prescriptive compliance path, include in such proposed amendments a prescriptive compliance path to the extent that the commissioner*

determines such a path to be practicable under applicable federal and state law and rules and such other concerns as such advisory committee determine to be relevant.

§ 28-1001.3.4 Predicted energy use targets. *For proposed amendments to this code submitted by the commissioner to the city council pursuant to section 28-1001.3.1, the commissioner, after receiving the advice and recommendations of the New York city energy conservation code advisory committee established pursuant to section 28-1001.3.2, shall for such amendments due to be submitted to the city council in or after 2025 submit to the city council proposed amendments to this code to establish predicted energy use targets for covered buildings in the city. In addition:*

1. *By no later than January 1 of the year before such amendments are due to be submitted to the city council, the commissioner, after receiving the advice and recommendations of such advisory committee, shall prepare and electronically submit to the mayor and the speaker of the council, and make publicly available online, a report recommending predicted energy use targets for covered buildings in the city. Such report shall include, at a minimum:*
 - 1.1. *A metric for measuring the predicted energy use of covered buildings that can be used to meaningfully compare such use with the predicted energy use of other similar buildings;*
 - 1.2. *For each type of covered building in the city, as such types correspond to the prototypes set forth in ASHRAE 90.1-2013, a predicted energy use target expressed in terms of such metric;*
 - 1.3. *Results and analysis of energy modeling for a representative sample of each such type of covered building for which a predicted energy use target is being recommended;*
 - 1.4. *Examples of designs of such buildings that would satisfy such targets, provided that, if the New York State Energy Code in effect at the time such report is compiled includes a prescriptive compliance path, such report shall include recommendations for a prescriptive compliance path to achieve such targets if such advisory committee determines such a path to be practicable under applicable federal and state law and rules and such other concerns as the commissioner determines to be relevant;*
 - 1.5. *An analysis of the impact that such targets would have on construction costs and other costs;*
 - 1.6. *Recommendations for accounting for predicted energy use based on the source of such energy, including but not limited to, a method for accounting for sources that are qualified energy resources, as such term is defined in section 45 of title 26 of the United States code in effect on January 1, 2017;*
 - 1.7. *Recommendations for implementing such targets;*
 - 1.8. *A description of why such targets would not render the design and construction of buildings impracticable or unduly burdensome; and*
 - 1.9. *If such targets differ from the predicted energy use targets recommended by such advisory committee, a list of the predicted energy use targets recommended by advisory committee.*
2. *The predicted energy use targets recommended by the commissioner shall be as stringent as practicable, provided that:*
 - 2.1. *Except as provided in item 2.2, such recommended targets shall be such that the predicted energy use of buildings that are designed and constructed in compliance with such targets is, on average, expected to be no greater than 70 percent of the predicted energy use of such buildings if such*

buildings were designed and constructed in compliance with ASHRAE 90.1-2013 or the New York State Energy Code, as such term was defined on December 1, 2017;

- 2.2. *If the commissioner determines that the predicted energy use targets necessary to achieve compliance with item 2.1 would render the design and construction of buildings impracticable or unduly burdensome, (i) such recommended targets shall minimize, to the greatest extent such advisory committee determines to be practicable, the average predicted energy use of buildings designed and constructed in compliance with such recommended targets and (ii) the report required pursuant to item 1 shall, in addition to the requirements of such item, describe why the predicted energy use targets necessary to achieve compliance with item 2.1 would render the design and construction of buildings impracticable and unduly burdensome and the estimated percentage by which the average predicted energy use of buildings designed and constructed in compliance with such recommended targets would be less than the average predicted energy use of such buildings if such buildings were designed and constructed in minimum compliance with ASHRAE 90.1-2013 or the New York State Energy Code, as such term was defined on December 1, 2017; and*
- 2.3. *Such recommended target for any type of building shall not be more stringent than the targets set forth in clause (B) of subparagraph (i) of the definition of low energy intensity target in paragraph 1 of subdivision l of section 224.1 of the New York city charter.*

§ 3. This local law takes effect immediately.

COSTA G. CONSTANTINIDES, *Chairperson*; RORY I. LANCMAN, ERIC A. ULRICH; Committee on Environmental Protection, December 18, 2017. *Other Council Members Attending: Council Members Kallos and Garodnick.*

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. 1632-A

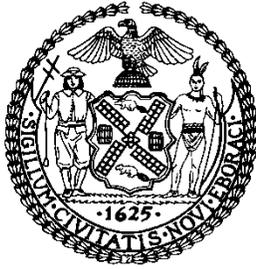
Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to energy efficiency scores and grades for certain buildings.

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on June 6, 2017 (Minutes, page 1868), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int. No. 54-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1632-A:



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
 LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 1632-A

COMMITTEE: ENVIRONMENTAL PROTECTION

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to energy efficiency scores and grades for certain buildings

SPONSORS: By Council Members Garodnick, Johnson, Constantinides, Cohen, Rosenthal, Menchaca and Gentile

SUMMARY OF LEGISLATION: Proposed Int. No. 1632-A would require that building owners to obtain scores and, from the Department of Buildings (DOB), a grade indicating such building's energy efficiency. These scores/grades would be posted in a conspicuous place in the building and publicly available online. Additionally, the Department of Buildings (DOB) would be required to, from time to time, audit the information submitted for buildings annually involving appropriate sample sizes as determined by DOB. Finally, on or before December 31, 2021, an agency designated by the Mayor would be required to submit to the Speaker and the Mayor a report on the value of an energy asset score in predicting energy performance for buildings.

EFFECTIVE DATE: This local law takes effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated 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 the enactment of this legislation because DOB would use existing resources to implement the provisions of the bill.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division

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

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, Finance Division
 Crilhien Francisco, Unit Head, Finance Division
 Eric Bernstein, Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1632 on June 6, 2017 and was referred to the Committee on Environmental Protection (Committee). The Committee considered the legislation at a hearing on June 27, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 1632-A will be considered by the Committee on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1632-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1632-A:)

Int. No. 1632-A

By Council Members Garodnick, Johnson, Constantinides, Cohen, Rosenthal, Menchaca, Gentile and Kallos.

A Local Law to amend the administrative code of the city of New York, in relation to energy efficiency scores and grades for certain buildings

Be it enacted by the Council as follows:

Section 1. Section 28-201.2.2 of the administrative code of the city of New York, adding a new item 7 to read as follows:

7. A violation of section 28-309.12.

§ 2. The title of article 309 of chapter 3 of title 28 of the administrative code of the city of New York, as added by local law number 84 for the year 2009, is amended to read as follows:

**ARTICLE 309
BENCHMARKING ENERGY AND WATER USE
AND DISCLOSURE OF ENERGY EFFICIENCY SCORES AND GRADES**

§ 3. Article 309 of chapter 3 of title 28 of the administrative code of the city of New York is amended by adding new sections 28-309.12 to read as follows:

§ 28-309.12 Energy efficiency scores and energy efficiency grades. *Energy efficiency scores and grades for buildings shall be obtained, assigned and disclosed in accordance with this section.*

§ 28-309.12.1 Definitions. *As used in section 28-309.12, the following terms shall have the following meanings:*

ENERGY EFFICIENCY GRADE. *The term “energy efficiency grade” means, for a covered building, a grade based on an energy efficiency score assigned through the benchmarking tool in accordance with this section as follows:*

- 1. If such score is equal to or greater than 90 the energy efficiency grade shall be A;*
- 2. If such score is equal to or greater than 50 but less than 90, the energy efficiency grade shall be B;*

3. *If such score is equal to or greater than 20 but less than 50, the energy efficiency grade shall be C;*
4. *If such score is less than 20, the energy efficiency grade shall be D;*
5. *If the owner of such building has not complied with section 28-309.12.2, and such owner has had an opportunity to be heard with respect to such non-compliance, the energy efficiency grade shall be F; and*
6. *If, in accordance with the rules of the department, it is not feasible to obtain an energy efficiency score for such building or if such building is subject to the exception in section 28-309.8, the energy efficiency grade shall be N.*

ENERGY EFFICIENCY SCORE. *The term “energy efficiency score” means, for a building, the Energy Star rating for such building or a score that assesses the energy use of such building relative to similar buildings that is assigned through the benchmarking tool.*

ENERGY STAR RATING. *The rating that a building earns using the United States Environmental Protection Agency ENERGY STAR portfolio manager to compare building energy performance to similar buildings in similar climates.*

§ 28-309.12.2 Energy efficiency score and energy efficiency grade required. *In 2020 and in each calendar year thereafter, an owner of a covered building shall use the benchmarking tool to provide an energy efficiency score for such building to the department in accordance with the rules of the department unless, in accordance with such rules, the building is a type of building for which it is not feasible to obtain an energy efficiency score. In each such year, the department shall issue an energy efficiency grade to the owner in accordance with such rules.*

§ 28-309.12.3 Display of energy efficiency score and energy efficiency grade. *Within 30 days after the owner of a covered building obtains an energy efficiency grade, such owner shall post such grade and the energy efficiency score upon which such grade was based in a conspicuous location near each public entrance to such building, in a form and manner established by the department.*

Exception: *This section 28-309.12.3 shall not apply to posting of the energy efficiency score of a building with an energy efficiency grade of N.*

§ 28-309.12.4 Publication of energy efficiency grades and energy efficiency scores. *For each building for which an energy efficiency grade or energy efficiency score is generated pursuant to this section, the department shall make information generated in connection with such grade and score publicly available online by no later than May 1 of the year following such generation.*

Exception: *This section 28-309.12.4 shall not apply to information generated with respect to a building with an energy efficiency grade of N.*

§ 28-309.12.5 Audits. *The department shall, from time to time, audit information submitted for buildings in connection with energy efficiency grades and energy efficiency scores. Such audits shall occur at least annually and shall involve appropriate sample size of buildings, as determined by the department.*

§ 4. a. On or before December 31, 2021, an agency designated by the mayor shall electronically submit to the mayor and the speaker of the council a report on the value of the energy asset score in predicting energy performance for buildings, including recommendations as to whether and in what form and manner such scores should be disclosed.

b. As used in this section:

Agency. The term “agency” means an agency, as defined in section 1-112 of the administrative code of the city of New York, the head of which is appointed by the mayor or by a person appointed by the mayor.

Energy asset score. The term “energy asset score” means, for a building, a score that evaluates the energy efficiency of such building’s envelope and mechanical and electrical systems.

§ 5. This local law takes effect immediately.

COSTA G. CONSTANTINIDES, *Chairperson*; RORY I. LANCMAN, ERIC A. ULRICH; Committee on Environmental Protection, December 18, 2017. *Other Council Members Attending: Council Members Kallos and Garodnick.*

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. 1653-B

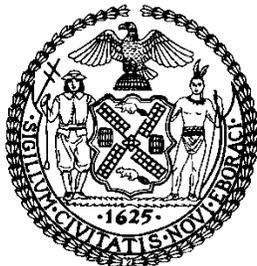
Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to responses to noise complaints.

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on June 21, 2017 (Minutes, page 2213), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Environmental Protection for Int. No. 54-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1653-B:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 1653-B

COMMITTEE: ENVIRONMENTAL PROTECTION

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to responses to noise complaints

SPONSORS: By Council Members Kallos, Constantinides, Dromm, Mendez and Menchaca

SUMMARY OF LEGISLATION: Proposed Int. No. 1653-B would require the Commissioner of the Department of Environmental Protection (DEP) to set rules for specific time frames for inspections in response to certain types of noise complaints. In addition, this legislation would also require DEP to submit annual reports on inspections in response to noise complaints, as well as require that all noise mitigation plans be filed electronically. Lastly, this bill would create new violations for noise that exceeds certain decibel levels and authorize the DEP to issue stop work orders in response to certain noise violations.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated 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 the enactment of this legislation because DEP would use existing resources to implement the provisions of the bill.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division

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

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director, Finance Division
Crilhien Francisco, Unit Head, Finance Division
Eric Bernstein, Counsel, Finance Division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1653 on June 21, 2017 and was referred to the Committee on Environmental Protection (Committee). The legislation was amended after introduction, and the Committee considered the amended legislation, Proposed Intro. No. 1653-A, at a hearing on September 25, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 1653-B, will be considered by the Committee on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1653-B will be submitted to the full Council for a vote on December 19, 2017

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1653-B:)

Int. No. 1653-B

By Council Members Kallos, Constantinides, Dromm, Mendez and Menchaca.

A Local Law to amend the administrative code of the city of New York, in relation to responses to noise complaints

Be it enacted by the Council as follows:

Section 1. Section 24-207 of the administrative code of the city of New York is amended by adding new subdivisions (e) and (f) to read as follows:

(e) The commissioner shall adopt rules prescribing specific time frames for inspections in response to after hours noise complaints received by the department in order to ensure that such inspections are most likely to occur at (i) a time that the alleged noise is continued from the time of the complaint or (ii) at a time when the alleged noise is likely to be repeated.

(f) The commissioner shall publish on the city's website the manner by which noise levels shall be measured during inspections conducted pursuant to this section and in accordance with section 24-217.1 which shall be available online

(f) By no later than January 31 of each year, the department shall submit to the mayor and the council, and publicly post on its website, a report, containing, at a minimum, for the previous calendar year:

(i) the number of inspectors employed by the department;

(ii) the number of complaints regarding noise received by the department, disaggregated by the type of noise;

(iii) the number of after hours noise complaints responded to within the amount of time prescribed by rule as well as the number of duplicative after hours noise complaints;

(iv) the number of non-violation resolutions to complaints;

(v) the number of noise related violations issued;

(vi) the number of such violations which were dismissed;

(vii) the amount of civil penalties which were paid pursuant to such violations;

(viii) the number of alternative noise mitigation plans approved pursuant to section 24-221 of this code;

and

(ix) the number of written stop work orders issued pursuant to section 24-223.1 of this code.

§ 2. Subdivision (a) of section 24-219 of the administrative code of the city of New York, as amended by local law number 113 for the year 2005, is amended to read as follows:

(a) The commissioner shall adopt rules prescribing noise mitigation strategies, methods, procedures and technology that shall be used [at] *where* construction [sites] *is occurring at any location (sites)* whenever any one or more of the construction devices or activities listed below are employed or performed:

(1) air compressors.

(2) pile drivers.

(3) sledgehammers.

(4) bulldozers.

(5) pneumatic hammers.

(6) [steam shovels] *interior renovation as defined in such rules.*

(7) derricks.

(8) cranes.

(9) [steam or] electric *powered* hoists.

(10) off-road construction vehicles other than trucks.

(11) pumps.

(12) pneumatic tools.

(13) blasting.

- (14) power tools.
- (15) tunneling machines.
- (16) construction devices with internal combustion engines.
- (17) construction devices that emit impulsive sound.
- (18) construction devices that create vibration.
- (19) metal plates used in street construction to temporarily cover excavations.
- (20) any other construction devices or activities specified in such rules.

§ 3. Subdivision (e) of section 24-220 of the administrative code of the city of New York, as amended by a local law amending the administrative code of the city of New York relating to public access to noise mitigation plans, as proposed in introduction number 1300-A for the year 2017, is amended to read as follows:

(e) The plan shall be filed *electronically* with the department no later than 30 days after the commencement of construction if it conforms in all respects to the rules of the department with respect to construction devices and activities employed or performed at the construction site. A plan that deviates in any respect from such rules or an alternative noise mitigation plan required to be certified in conjunction with an undue hardship application pursuant to paragraph (5) of subdivision (e) of section 24-223 shall be subject to the prior approval of the commissioner in accordance with section 24-221 of this code.

§ 4. Section 24-221 of the administrative code of the city of New York, as added by local law number 113 for the year 2005, is amended to read as follows:

§ 24-221. Alternative noise mitigation plan. (a) Upon application, the commissioner may approve an alternative noise mitigation plan for a particular construction site that deviates from strict compliance with the noise mitigation rules. Application for approval of such plan shall be *electronically* submitted to the department at least ten business days prior to the commencement of construction or as soon as practicable but no later than 24 hours prior to the commencement of construction in a form and manner and accompanied by such information and documentation as shall be set forth in the rules of the department. *An application for approval may be submitted after the commencement of construction if an application includes a showing that all reasonable available mitigation measures have been implemented since the commencement of construction but aggregate sound levels from the site exceed or are reasonably anticipated to exceed one or more of the applicable limits in this chapter.*

The commissioner may approve such alternative noise mitigation plan if he or she finds that:

(1) strict compliance with the noise mitigation rules would not be possible or would create an undue hardship because of the location or unique characteristics of the site or of the construction devices or activities to be employed or performed at the site; and

(2) the alternative noise mitigation strategies, methods, procedures or equipment proposed are consistent with the purposes and policies of this code.

(b) [Notwithstanding the foregoing provisions, with respect to construction sites where construction is performed pursuant to a permit issued prior to the effective date of this section or in the case of construction by or on behalf of a city agency where construction is performed under a contract bid out prior to the effective date of this section, application for approval of an alternative noise mitigation plan may be submitted within 60 days after the effective date of this section. The commissioner may approve such plan if he or she finds that:

(1) strict compliance with the noise mitigation rules would not be possible or would create an undue hardship because of the location or unique characteristics of the site or of the construction devices or activities employed or performed at the site, or

(2) strict compliance with such rules would be unreasonable or unduly burdensome with respect to construction work that is imminent or ongoing on the effective date of this section, or

(3) with respect to city construction projects, the implementation of contract modifications to achieve strict compliance with such rules would result in unreasonable delay and/or increased expenditure for a necessary public improvement, and

(4) the alternative noise mitigation strategies, methods, procedures or equipment proposed are consistent with the purposes and policies of this code.

(c) Where the commissioner rejects an alternative noise mitigation plan, an applicant may appeal such rejection in accordance with the rules of the department. An alternative plan shall not be in effect unless and until it has been approved by the commissioner except that where a timely alternative plan has been filed with the commissioner for approval, a construction site in compliance with such alternative plan shall be deemed to

be in compliance with this section unless and until such plan is rejected by the commissioner and for a reasonable time thereafter as determined by the commissioner.

(c) *Notwithstanding any other provision of this chapter, construction work performed in accordance with an approved alternative noise mitigation plan containing decibel level limits and requirements prescribed for specific sources or devices that is in full compliance with this section and the rules promulgated by the department thereunder shall be deemed to be in full compliance with all decibel level limits set forth in any other section of this chapter.* § 5. Subdivision (d) of section 24-223 of the administrative code of the city of New York, as added by local law number 113 for the year 2005, is amended to read as follows:

(d) [Where there is] *During the time that an after hours authorization is in effect, notwithstanding full compliance with the noise mitigation plan [yet nevertheless] the department shall issue an advisory or a violation where aggregate sound levels from the site [where an after hours authorization is in effect] exceed the following limits:*

(1) *8dB(A), and on or after January 1, 2020, 7 dB(A) above the ambient sound level as measured in any residential receiving property dwelling unit [(with windows and doors that may affect the measurement closed)], the commissioner may request the person performing the work to confer with representatives of the department regarding additional noise mitigation measures that may be employed at the site to reduce aggregate sound levels. After such conference the commissioner may direct amendment of the noise mitigation plan for the site. Failure to respond to a request for a conference or to amend the noise mitigation plan within the time prescribed in a notice issued by the department shall be a violation of this code.], or*

(2) *the noise levels specified in section 24-228 (a) of this code on a construction site that is not within 200 feet of a residential receptor, or*

(3) *except as provided in paragraph (4) of this subdivision, 80dB(A), and on or after January 1, 2020, 75 dB(A) as measured 50 or more feet from the source or sources at a point outside the property line where the source or sources are located or as measured 50 or more feet from the source or sources on a public right-of-way when that source is within 200 feet of a residential receptor, or*

(4) *85dB(A) as measured 50 or more feet from the source or sources at a point outside the property line where the source or sources are located, or as measured 50 or more feet from the source or sources on a public-right-of-way when the source is street construction.*

§ 6. Subchapter 4 of chapter 2 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-223.1 to read as follows:

§ 24-223.1 *Stop work order.*

(a) *Whenever the department finds that any work is being performed in violation of section 24-222 or section 24-228 or any rules promulgated thereunder, and such work poses a threat to human health and safety, the department may issue a stop work order with respect to such work or solely with respect to the equipment used for work being performed in violation of section 24-222 or 24-228.*

(b) *Such order may be given (i) verbally or (ii) posted at the site and served personally on or mailed to the owner, lessee or occupant of the site, or to the person executing the work at the site, or to the agent of any of them and shall include the reason for the issuance of the stop work order. A verbal stop work order shall be followed promptly by a written order in accordance with this subdivision.*

(c) *Upon issuance of a stop work order, work specified in the order shall immediately cease, except work authorized or required by the commissioner or the head of any other agency to ensure public safety or to stabilize the site.*

(d) *No person shall with knowledge or notice of a stop work order allow, authorize, promote, continue or cause to be continued such work that is the subject of the stop work order.*

(e) *A stop work order issued pursuant to subdivision a of this section may be appealed in accordance with the rules of the department, and the commissioner shall provide notice and an opportunity to be heard within 14 days of the filing of such appeal. A stop work order shall be lifted if, upon appeal, the commissioner determines that the issuance of such order was not proper, or upon the submission of proof satisfactory to the commissioner that the requirements of such order have been satisfied. In the case of a verbal order, if the commissioner determines that the condition that gave rise to the order has been immediately corrected, including but not limited to which devices or activities may not be used or performed at the same time and which activities may be prohibited, such order shall be lifted at once and shall not be followed by a written order.*

§ 7. Section 24-224 of the administrative code of the city of New York, as added by local law number 113 for the year 2005, is amended to read as follows:

§ 24-224. Construction work without noise mitigation plan unlawful. It shall be unlawful to perform work at any construction site in the city that is not in compliance with a noise mitigation plan where such plan is required pursuant to this subchapter and with the noise mitigation rules adopted pursuant to this subchapter. [Notwithstanding any other provision of this code, construction work performed in accordance with a noise mitigation plan that is in full compliance with this subchapter and such rules shall be deemed to be in compliance with all decibel level limits set forth in other subchapters of this code. The provisions of this subchapter shall supercede all other provisions of this code relating to construction activities or devices that are inconsistent with or in conflict therewith.]

§ 8. Section 24-228 of the administrative code of the city of New York, as added by local law number 113 for the year 2005, is amended to read as follows:

§ 24-228. Construction[, exhausts and other] devices. (a) No person shall operate or use or cause to be operated or used a construction device or combination of devices in such a way as to create an unreasonable noise. For the purposes of this section unreasonable noise shall include but shall not be limited to sound that exceeds the following prohibited noise levels:

(1) Sound, other than impulsive sound, attributable to the source or sources, that exceeds 85 dB(A) as measured 50 or more feet from the source or sources at a point outside the property line where the source or sources are located or as measured 50 or more feet from the source or sources on a public right-of-way.

(2) Impulsive sound, attributable to the source, that is 15 dB(A) or more above the ambient sound level as measured at any point within a receiving property or as measured at a distance of 15 feet or more from the source on a public right-of-way. Impulsive sound levels shall be measured in the A-weighting network with the sound level meter set to fast response. The ambient sound level shall be taken in the A-weighting network with the sound level meter set to slow response.

(3) *Sound that exceeds the decibel levels set forth in subdivision (d) of section 24-223 during the time that an after hours authorization is required to be in effect.*

(b) Where a particular sound source or device is subject to decibel level limits and requirements specifically prescribed for such source or device elsewhere in this code, such specific decibel limits shall apply to such device or source. However, if aggregate sound levels from a construction site exceed the limits set forth in this section, compliance with such specific decibel limits shall not be a defense in any proceeding relating to a violation of this section.

§ 9. This local law takes effect 180 days after it becomes law, provided that section three takes effect on the same date that a local law for the year 2017 amending the administrative code of the city of New York relating to public access to noise mitigation plans, as proposed in introduction number 1300-A, takes effect and except that the department of environmental protection may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, prior to such date and further provided that the amendments to section 24-221, 24-223 and 24-228 of title 24 of the administrative code of the city of New York made by sections four, five and eight of this local law that increase or impose new decibel level limits and the amendments to section 24-224 of such code made by section seven of this local law shall not apply to construction sites where construction work is performed pursuant to a permit issued prior to the effective date of sections four, five, seven and eight of this local law or in case of construction by or on behalf of a city agency where construction work is performed under a contract bid out prior to the effective date of sections four, five, seven and eight of this local law.

COSTA G. CONSTANTINIDES, *Chairperson*; RORY I. LANCMAN, ERIC A. ULRICH; Committee on Environmental Protection, December 18, 2017. *Other Council Members Attending: Council Members Kallos and Garodnick.*

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 Finance

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 Res. No. 1780

Report of the Committee on Finance in favor of a Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Expense Budget.

The Committee on Finance, to which the annexed preconsidered resolution was referred on December 19, 2017, respectfully

REPORTS:

Introduction. The Council of the City of New York (the “Council”) annually adopts the City’s budget covering expenditures other than for capital projects (the “expense budget”) pursuant to Section 254 of the Charter. On June 6, 2017, the Council adopted the expense budget for fiscal year 2018 with various programs and initiatives (the “Fiscal 2018 Expense Budget”). On June 14, 2016, the Council adopted the expense budget for fiscal year 2017 with various programs and initiatives (the “Fiscal 2017 Expense Budget”). On June 26, 2015, the Council adopted the expense budget for fiscal year 2016 with various programs and initiatives (the “Fiscal 2016 Expense Budget”).

Analysis. This Resolution, dated December 19, 2017, approves the new designation and the changes in the designation of certain organizations receiving local and youth discretionary funding and funding for certain initiatives in accordance with the Fiscal 2018 Expense Budget, approves the new designation and the changes in the designation of certain organizations receiving local and youth discretionary funding in accordance with the Fiscal 2017 Expense Budget, approves the changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2016 Expense Budget, and amends the description for the Description/Scope of Services of certain organizations receiving local and youth discretionary funding and funding for a certain initiative in accordance with the Fiscal 2018 Expense Budget.

In an effort to continue to make the budget process more transparent, the Council is providing a list setting forth new designations and/or changes in the designation of certain organizations receiving local and youth discretionary funding and funding for certain initiatives in accordance with the Fiscal 2018 Expense Budget, new designation and the changes in the designation of certain organizations receiving local and youth discretionary funding in accordance with the Fiscal 2017 Expense Budget, changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2016 Expense Budget, and amends the description for the Description/Scope of Services of certain organizations receiving local and youth discretionary funding and funding for a certain initiative in accordance with the Fiscal 2018 Expense Budget.

This Resolution sets forth the new designation and the changes in the designation of certain organizations receiving local discretionary funding pursuant to the Fiscal 2018 Expense Budget, as described in Chart 1; sets forth the change in the designation of certain organizations receiving youth discretionary funding pursuant to the Fiscal 2018 Expense Budget, as described in Chart 2; sets forth the new designation and changes in the designation of funding pursuant to certain initiatives in the Fiscal 2018 Expense Budget, as described in Charts 3-23; sets forth the new designation and the changes in the designation of certain organizations receiving local discretionary funding pursuant to the Fiscal 2017 Expense Budget, as described in Chart 24; sets forth the new designation and the changes in the designation of certain organizations receiving youth discretionary funding pursuant to the Fiscal 2017 Expense Budget, as described in Chart 25; sets forth the changes in the designation of a certain organization receiving local discretionary funding pursuant to the Fiscal 2016 Expense Budget, as described in Chart 26; amends the description for the Description/Scope of Services of certain organizations receiving funding in accordance with the Fiscal 2018 Expense Budget, as described in Chart 27; and sets forth

the designation of certain organizations receiving funding pursuant to the Beating Hearts Initiative in accordance with the Fiscal 2018 Expense Budget as described in Chart 28.

The Resolution would approve the change in the name of the Immigrant Resource Center to the Immigrant Resource Initiative.

Specifically, Chart 1 sets forth the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2018 Expense Budget. Some of these changes will be effectuated upon a budget modification.

Chart 2 sets forth the changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2018 Expense Budget.

Chart 3 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Anti-Poverty Initiative in accordance with the Fiscal 2018 Expense Budget. These changes will be effectuated upon a budget modification.

Chart 4 sets forth the new designation of certain organizations receiving funding pursuant to the Speaker's Initiative to Address Citywide Needs in accordance with the Fiscal 2018 Expense Budget. These changes will be effectuated upon a budget modification.

Chart 5 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural After-School Adventure (CASA) Initiative in accordance with the Fiscal 2018 Expense Budget. Some of these changes will be effectuated upon a budget modification.

Chart 6 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to A Greener NYC Initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 7 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2018 Expense Budget. Some of these changes will be effectuated upon a budget modification.

Chart 8 sets forth the new designation of certain organizations receiving funding pursuant to the Healthy Aging Initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 9 sets forth the new designation of certain organizations receiving funding pursuant to the NYC Cleanup Initiative in accordance with the Fiscal 2018 Expense Budget. Some of these changes will be effectuated upon a budget modification.

Chart 10 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Parks Equity Initiative in accordance with the Fiscal 2018 Expense Budget. Some of these changes will be effectuated upon a budget modification.

Chart 11 sets forth the new designation of a certain organization receiving funding pursuant to the Neighborhood Development Grant Initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 12 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural Immigrant Initiative in accordance with the Fiscal 2018 Expense Budget. One of these changes will be effectuated upon a budget modification.

Chart 13 sets forth the new designation of a certain organization receiving funding pursuant to the HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 14 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Art as a Catalyst for Change Initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 15 sets forth the new designation of certain organizations receiving funding pursuant to the Job Training and Placement Initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 16 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Community Schools Initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 17 sets forth the removal of funds from the administering agency receiving funding pursuant to the Discretionary Childcare Initiative in accordance with the Fiscal 2018 Expense Budget. This removal will be effectuated upon a budget modification.

Chart 18 sets forth the removal of funds from the administering agency receiving funding pursuant to the Naturally Occurring Retirement Communities (NORCs) Initiative in accordance with the Fiscal 2018 Expense Budget. This removal will be effectuated upon a budget modification.

Chart 19 sets forth the removal of funds from the administering agency receiving funding pursuant to the Adult Literacy Initiative in accordance with the Fiscal 2018 Expense Budget. This removal will be effectuated upon a budget modification.

Chart 20 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Senior Centers, Programs, and Enhancements Initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 21 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Immigrant Resource Initiative in accordance with the Fiscal 2018 Expense Budget. Some of these changes will be effectuated upon a budget modification.

Chart 22 sets forth the new designation of a certain organization receiving funding pursuant to the Ending the Epidemic Initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 23 sets forth the new designation of certain organizations receiving funding pursuant to the Home Loan Program Initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 24 sets forth the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2017 Expense Budget.

Chart 25 sets forth the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2017 Expense Budget.

Chart 26 sets forth the change in the designation of a certain organization receiving local discretionary funding in accordance with the Fiscal 2016 Expense Budget.

Chart 27 amends the description for the Description/Scope of Services for certain organizations receiving local and youth discretionary funding and funding for a certain initiative in accordance with the Fiscal 2018 Expense Budget.

Chart 28 sets forth the organizations that will receive equipment, specifically an automated external defibrillator, funded by the Beating Hearts Initiative as designated in Schedule C for Fiscal 2018.

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

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

Description of Above-captioned Resolution. In the above-captioned Resolution, the Council would approve the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2018, Fiscal 2017, and Fiscal 2016 Expense Budgets. Such Resolution would take effect as of the date of adoption.

Accordingly, this Committee recommends its adoption.

(The following is the text of Res. No. 1780:)

Preconsidered Res. No. 1780

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

By Council Member Ferreras-Copeland.

Whereas, On June 6, 2017 the City Council adopted the expense budget for fiscal year 2018 with various programs and initiatives (the "Fiscal 2018 Expense Budget"); and

Whereas, On June 14, 2016 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2017 with various programs and initiatives (the "Fiscal 2017 Expense Budget"); and

Whereas, On June 26, 2015 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2016 with various programs and initiatives (the "Fiscal 2016 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2018, Fiscal 2017, and Fiscal 2016 Expense Budgets by approving the new designation and changes in the designation of certain organizations receiving local and youth discretionary funding, and by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2018 Expense Budget by approving new Description/Scope of Services for certain organizations receiving local and youth discretionary funding and funding pursuant to a certain initiative; now, therefore, be it

Resolved, That the City Council approves the change in the name of the Immigrant Resource Center to the Immigrant Resource Initiative; and

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 1; and be it further

Resolved, That the City Council approves the changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 2; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Anti-Poverty Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 3; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Speaker's Initiative to Address Citywide Needs in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 4; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural After-School Adventure (CASA) Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 5; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to A Greener NYC Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 6; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 7; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Healthy Aging Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 8; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the NYC Cleanup Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 9; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Parks Equity Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 10; and be it further

Resolved, That the City Council approves the new designation of a certain organization receiving funding pursuant to the Neighborhood Development Grant Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 11; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural Immigrant Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 12; and be it further

Resolved, That the City Council approves the new designation of a certain organization receiving funding pursuant to the HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 13; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Art as a Catalyst for Change Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 14; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Job Training and Placement Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 15; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Community Schools Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 16; and be it further

Resolved, That the City Council approves the removal of funds from the administering agency receiving funding pursuant to the Discretionary Childcare Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 17; and be it further

Resolved, That the City Council approves the removal of funds from the administering agency receiving funding pursuant to the Naturally Occurring Retirement Communities (NORCs) Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 18; and be it further

Resolved, That the City Council approves the removal of funds from the administering agency receiving funding pursuant to the Adult Literacy Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 19; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Senior Centers, Programs, and Enhancements Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 20; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Immigrant Resource Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 21; and be it further

Resolved, That the City Council approves the new designation of a certain organization receiving funding pursuant to the Ending the Epidemic Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 22; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Home Loan Program Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 23; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2017 Expense Budget, as set forth in Chart 24; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2017 Expense Budget, as set forth in Chart 25; and be it further

Resolved, That the City Council approves the change in the designation of a certain organization receiving local discretionary funding in accordance with the Fiscal 2016 Expense Budget, as set forth in Chart 26; and be it further

Resolved, That the City Council amends the description for the Description/Scope of Services for certain organizations receiving local and youth discretionary funding and funding for a certain initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 27; and be it further

Resolved, That the City Council approves the organizations that will receive equipment from the organization funded by the Beating Hearts Initiative as designated in Schedule C for Fiscal 2018, as set forth in Chart 28.

ATTACHMENT:

CHART 1: Local Initiatives - Fiscal 2018

Member	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
Maisel	One Brooklyn Fund, Inc.**	46-5189061	DYCD	(\$19,000.00)	260	005			
Maisel	Make Music New York, Inc.**	20-5751217	DCLA	\$19,000.00	126	003			
Lander	One Brooklyn Fund, Inc.**	46-5189061	DYCD	(\$5,000.00)	260	005			
Lander	Make Music New York, Inc.**	20-5751217	DCLA	\$5,000.00	126	003			
Cumbo	One Brooklyn Fund, Inc.**	46-5189061	DYCD	(\$5,000.00)	260	005			
Cumbo	Make Music New York, Inc.**	20-5751217	DCLA	\$5,000.00	126	003			
Greenfield	One Brooklyn Fund, Inc.**	46-5189061	DYCD	(\$5,000.00)	260	005			
Greenfield	Make Music New York, Inc.**	20-5751217	DCLA	\$5,000.00	126	003			
Eugene	One Brooklyn Fund, Inc.**	46-5189061	DYCD	(\$5,000.00)	260	005			
Eugene	Make Music New York, Inc.**	20-5751217	DCLA	\$5,000.00	126	003			
Levin	One Brooklyn Fund, Inc.**	46-5189061	DYCD	(\$2,000.00)	260	005			
Levin	Make Music New York, Inc.**	20-5751217	DCLA	\$2,000.00	126	003			
Menchaca	One Brooklyn Fund, Inc.**	46-5189061	DYCD	(\$5,000.00)	260	005			
Menchaca	Make Music New York, Inc.**	20-5751217	DCLA	\$5,000.00	126	003			
Rodriguez	New York Women's Chamber of Commerce, Inc.**	14-1845651	DYCD	(\$6,000.00)	260	005			
Rodriguez	New York Women's Chamber of Commerce, Inc.**	14-1845651	DYCD	(\$5,000.00)	260	005			
Rodriguez	New York Women's Chamber of Commerce, Inc.**	14-1845651	DSBS	\$6,000.00	801	002			
Rodriguez	New York Women's Chamber of Commerce, Inc.**	14-1845651	DSBS	\$5,000.00	801	002			
Barron	United Community Centers	11-1950787	DYCD	(\$25,000.00)	260	005			
Barron	United Community Centers, Inc.	11-1950787	DYCD	\$25,000.00	260	005			
Espinal	Reaching Across the World Ministries	11-3572515	DYCD	(\$5,000.00)	260	005			
Reynoso	Reaching Across the World Ministries	11-3572515	DYCD	(\$10,000.00)	260	005			
Espinal	Reaching Across the World Ministries, Inc.	11-3572515	DYCD	\$5,000.00	260	005			
Reynoso	Reaching Across the World Ministries, Inc.	11-3572515	DYCD	\$10,000.00	260	005			
Grodenschik	Department of Transportation**	13-6400434	DOT	(\$2,000.00)	841	011			
Grodenschik	Queensborough Community College Auxiliary Enterprise Association, Inc.**	11-2037770	CUNY	\$2,000.00	042	001			
Grodenschik	Department of Parks and Recreation**	13-6400434	DPR	(\$5,000.00)	846	006			
Grodenschik	Department of Transportation**	13-6400434	DOT	\$5,000.00	841	011			
Kallos	Friends of the Upper East Side Historic Districts**	13-3193351	DCLA	(\$20,000.00)	126	003			
Kallos	Friends of the Upper East Side Historic Districts**	13-3193351	DYCD	\$20,000.00	260	005			
Van Bramer	Queens Council on the Arts, Inc.	11-2219193	DCLA	(\$15,000.00)	126	003			
Van Bramer	Titan Productions, Inc.	81-3540107	DCLA	\$15,000.00	126	003			
Van Bramer	Department of Youth and Community Development **	13-6400434	DYCD	(\$6,300.00)	260	005			

Van Bramer	EarSay, Inc. **	31-1669271	DCLA	\$1,500.00	126	003			
Van Bramer	Sunnyside Gardens Preservation Alliance, Inc.	54-2143785	DYCD	\$4,800.00	260	005			

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 2: Youth Discretionary - Fiscal 2018

Member	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
Treyger	Coney Island Youth Alive, Inc.	51-0602645	DYCD	(\$10,000.00)	260	312			
Treyger	C.I. Youth Alive, Inc.	51-0602645	DYCD	\$10,000.00	260	312			
Koo	Korean American Family Services	13-3609811	DYCD	(\$5,000.00)	260	312			
Koo	Korean American Family Service Center, Inc., The	13-3609811	DYCD	\$5,000.00	260	312			
Vallone	Korean American Family Services	13-3609811	DYCD	(\$5,000.00)	260	312			
Vallone	Korean American Family Service Center, Inc., The	13-3609811	DYCD	\$5,000.00	260	312			
Constantinides	Corpus Christi Church	11-1666228	DYCD	(\$5,000.00)	260	312			
Constantinides	Roman Catholic Church of Corpus Christi	11-1666228	DYCD	\$5,000.00	260	312			
Van Bramer	Corpus Christi Church	11-1666228	DYCD	(\$5,000.00)	260	312			
Van Bramer	Roman Catholic Church of Corpus Christi	11-1666228	DYCD	\$5,000.00	260	312			

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 3: Anti-Poverty Initiative - Fiscal 2018

Member	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
Barron	One Brooklyn Fund, Inc.**	46-5189061	DYCD	(\$5,000.00)	260	005			
Barron	Make Music New York, Inc.**	20-5751217	DCLA	\$5,000.00	126	003			

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 4: Speaker's Initiative to Address Citywide Needs - Fiscal 2018

Member	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
Speaker	Leslie-Lohman Museum of Gay and Lesbian Art, The **	46-1245243	DCLA	\$80,000.00	126	003			
Speaker	Department of City Planning **	13-6400434	DCP	\$100,000.00	030	002			

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 5: Cultural After-School Adventure (CASA) Initiative - Fiscal 2018

Member	Organization - School	EIN Number	Agency	Amount	Agy #	U/A *
	Department of Cultural Affairs	13-6400434	DCLA	(\$140,000.00)	126	003
Greenfield	Brooklyn Arts Council, Inc. - Beth Jacob School	23-7072915	DCLA	\$20,000.00	126	003
Greenfield	Brooklyn Arts Council, Inc. - Public School 205K	23-7072915	DCLA	\$20,000.00	126	003
Chin	South Street Seaport Museum Foundation - Urban Assembly School of Business for Young Women	13-2596500	DCLA	\$20,000.00	126	003
Deutsch	Roundabout Theatre Company, Inc. - James Madison High School	13-6192346	DCLA	\$20,000.00	126	003
Kallos	Midtown Management Group, Inc. - [02M077] Lower Lab School	13-3192793	DCLA	\$20,000.00	126	003
Kallos	Marquis Studios Ltd. - [02M177] Yorkville East Middle School	13-3047206	DCLA	\$20,000.00	126	003
Garodnick	Circle in the Square Theatre School - The Repertory Company High School	13-3716314	DCLA	\$20,000.00	126	003
Williams	East Flatbush Village, Inc. - Public School 198**	80-0612019	DCLA	(\$20,000.00)	126	003
Williams	East Flatbush Village, Inc. - Public School 198**	80-0612019	DYCD	\$20,000.00	260	312
Williams	East Flatbush Village, Inc. - Public School 109**	80-0612019	DCLA	(\$20,000.00)	126	003
Williams	East Flatbush Village, Inc. - Public School 109**	80-0612019	DYCD	\$20,000.00	260	312
Vacca	Publicolor, Inc. - Lehman High School	13-3912768	DCLA	(\$20,000.00)	126	003
Vacca	Publicolor, Inc. - Mott Hall Community School	13-3912768	DCLA	\$20,000.00	126	003
Rose	Council on the Arts and Humanities for Staten Island - Public School 59R	13-3713211	DCLA	(\$20,000.00)	126	003
Rose	IlluminArt Productions - Public School 59R	42-1727647	DCLA	\$20,000.00	126	003
Gibson	Renaissance Youth Center	13-4122438	DCLA	(\$20,000.00)	126	003
Gibson	Renaissance Youth Center - Validus Preparatory Academy	13-4122438	DCLA	\$20,000.00	126	003
Greenfield	Brooklyn Arts Council, Inc. - PS 92K	23-7072915	DCLA	(\$20,000.00)	126	003
Greenfield	Brooklyn Arts Council, Inc. - PS 192K	23-7072915	DCLA	\$20,000.00	126	003
Greenfield	Brooklyn Arts Council, Inc. - PS 231K	23-7072915	DCLA	(\$20,000.00)	126	003
Greenfield	Brooklyn Arts Council, Inc. - PS 238K	23-7072915	DCLA	\$20,000.00	126	003
Barron	Research Foundation of the City University of New York - The School For Classics (19K683)	13-1988190	DCLA	(\$20,000.00)	126	003
Barron	Research Foundation of the City University of New York - Public School 66K	13-1988190	DCLA	\$20,000.00	126	003
King	Epic Theatre Center, Inc. - Bronx High School for Writing and Communication Arts	52-2303451	DCLA	(\$20,000.00)	126	003
King	Epic Theatre Center, Inc. - High School for Contemporary Arts	52-2303451	DCLA	\$20,000.00	126	003
Ferreras-Copeland	Louis Armstrong House Museum - PS 143Q	26-4178283	DCLA	(\$20,000.00)	126	003
Ferreras-Copeland	Louis Armstrong House Museum - Public School 228Q - Early Childhood Magnet School For The Arts	26-4178283	DCLA	\$20,000.00	126	003
Torres	Center for Urban Pedagogy Inc.	11-3625306	DCLA	(\$20,000.00)	126	003
Torres	Center for Urban Pedagogy Inc. - Knowledge And Power Preparatory Academy International High School (Kappa)	11-3625306	DCLA	\$20,000.00	126	003
Torres	Young Men's and Young Women's Hebrew Association	13-1624229	DCLA	(\$20,000.00)	126	003

Torres	Young Men's and Young Women's Hebrew Association - Theatre Arts Production Company School (X225)	13-1624229	DCLA	\$20,000.00	126	003
Torres	Bronx River Art Center, Inc. - P.S. 51-Bronx New School	13-3261148	DCLA	(\$20,000.00)	126	003
Torres	Bronx River Art Center, Inc. - Wings Academy (X684)	13-3261148	DCLA	\$20,000.00	126	003
King	Midtown Management Group, Inc. - Public School 41	13-3192793	DCLA	(\$20,000.00)	126	003
King	Midtown Management Group, Inc. - Baychester Academy (X169)	13-3192793	DCLA	\$20,000.00	126	003
Richards	Queens Botanical Garden Society, Inc. - M.S. 52Q	11-1635083	DCLA	(\$20,000.00)	126	022
Richards	Queens Botanical Garden Society, Inc. - Public School 52Q	11-1635083	DCLA	\$20,000.00	126	022

** Requires a budget modification for the changes to take effect
 Indicates pending completion of pre-qualification review

CHART 6: A Greener NYC Initiative - Fiscal 2018

Member	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A *
	Department of Youth and Community Development	13-6400434	DYCD	(\$75,746.00)	260	005
Grodenschik	Colonial Farmhouse Restoration Society of Bellerose, Inc.	11-2508369	DYCD	\$15,000.00	260	005
Grodenschik	Alley Pond Environmental Center, Inc.	11-2405466	DYCD	\$746.00	260	005
Gentile	Council on the Environment, Inc. - Greenmarket Youth Education Program	13-2765465	DYCD	\$20,000.00	260	005
Gentile	Brooklyn Greenway Initiative, Inc.	20-3283721	DYCD	\$40,000.00	260	005
Barron	United Community Centers	11-1950787	DYCD	(\$20,000.00)	260	005
Barron	United Community Centers, Inc.	11-1950787	DYCD	\$20,000.00	260	005

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 7: Support Our Seniors Initiative - Fiscal 2018

Member	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A *
	Department for the Aging **	13-6400434	DFTA	(\$52,000.00)	125	003
Grodenschik	Jewish Association for Services for the Aged (JASA)	13-2620896	DFTA	(\$10,000.00)	125	003
Grodenschik	Selfhelp Community Services, Inc. - SNAP Senior Center	13-1624178	DFTA	(\$10,000.00)	125	003
Grodenschik	Jewish Association for Services for the Aged (JASA)	13-2620896	DFTA	\$12,000.00	125	003
Torres	Older Adults Technology Services (OATS), Inc.	55-0882599	DFTA	\$20,000.00	125	003
Torres	New York Botanical Garden **	13-1693134	DCLA	\$40,000.00	126	005

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 8: Healthy Aging Initiative - Fiscal 2018

Member	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A *
	Department for the Aging	13-6400434	DFTA	(\$35,490.00)	125	003
Torres	God's Love We Deliver, Inc.	13-3366846	DFTA	\$17,745.00	125	003
Torres	St. Barnabas Hospital - "Smarter, Better, Health!"	13-1740122	DFTA	\$17,745.00	125	003

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 9: NYC Cleanup Initiative - Fiscal 2018

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A *
	Department of Youth and Community Development**	13-6400434	DYCD	(\$247,059.00)	260	005
Grodenschik	Wildcat Service Corporation	13-2725423	DYCD	\$35,000.00	260	005
Grodenschik	Department of Sanitation**	13-6400434	DSNY	\$12,059.00	827	102
Greenfield	Kings Highway Beautification Association, Inc.	20-4986882	DYCD	\$54,000.00	260	005
Greenfield	Wildcat Service Corporation	13-2725423	DYCD	\$84,000.00	260	005
Greenfield	Association of Community Employment Programs for the Homeless, Inc.	13-3846431	DYCD	\$62,000.00	260	005

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 10: Parks Equity Initiative - Fiscal 2018

Member	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A *
	Department of Parks and Recreation	13-6400434	DPR	(\$18,500.00)	846	006
Van Bramer	LaGuardia Community College - Newtown Creek Alliance	13-1988190	DPR	\$10,000.00	846	006
Van Bramer	Friends of Gantry Plaza State Park, Inc.	47-3613599	DPR	\$8,500.00	846	006
Cohen	Department of Parks and Recreation**	13-6400434	DPR	(\$2,000.00)	846	006
Cohen	Mary Miss / City as Living Laboratory (CALL), Inc.**	45-3437108	DYCD	\$2,000.00	260	005
Mendez	City Parks Foundation	13-3561657	DPR	(\$10,000.00)	846	006
Mendez	CITYarts, Inc.	13-2766701	DPR	\$10,000.00	846	006

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 11: Neighborhood Development Grant Initiative - Fiscal 2018

Member	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A *
	Department of Small Business Services	13-6400434	DSBS	(\$22,000.00)	801	002
Greenfield	Kings Highway Beautification Association, Inc.	20-4986882	DSBS	\$22,000.00	801	002

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 12: Cultural Immigrant Initiative - Fiscal 2018

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A *
	Department of Cultural Affairs	13-6400434	DCLA	(\$595,000.00)	126	003
Grodenschik	King Manor Association of Long Island, Inc.	11-2396324	DCLA	\$25,000.00	126	003
Grodenschik	Queens Jewish Community Council, Inc.	23-7172152	DCLA	\$30,000.00	126	003
Grodenschik	JLSC Educational Tour Bus, Inc.	13-4085631	DCLA	\$20,000.00	126	003
Grodenschik	Midtown Management Group, Inc.	13-3192793	DCLA	\$20,000.00	126	003
Grodenschik	Queens Symphony Orchestra, Inc.	11-2106191	DCLA	\$20,000.00	126	003
Salamanca	Bronx Documentary Center, The	45-2403312	DCLA	\$20,000.00	126	003
Salamanca	Casita Maria, Inc.	13-1623994	DCLA	\$95,000.00	126	003
Cabrera	ENACT, Inc.	13-3422660	DCLA	\$20,000.00	126	003
Cornegy	Society for the Preservation of Weeksville and Bedford Stuyvesant History	23-7330454	DCLA	\$5,000.00	126	003
Cornegy	Billie Holiday Theatre, Inc.	11-2336154	DCLA	\$15,000.00	126	003
Cornegy	Bedford Stuyvesant Restoration Corporation	11-6083182	DCLA	\$15,000.00	126	003
Cornegy	Purelements: An Evolution in Dance - Boys and Girls High School Campus	20-5332584	DCLA	\$10,000.00	126	003
Cornegy	Brooklyn Steppers, Inc., The - Public School 23K	27-1223035	DCLA	\$5,000.00	126	003
Cornegy	Dwana Smallwood Performing Arts Center, Inc.	90-0958731	DCLA	\$10,000.00	126	003
Cornegy	K.S. J.A.M.M. Dance Troupe, Inc.	20-2352155	DCLA	\$15,000.00	126	003 *
Cornegy	Kowteff School of African Dance	27-0117085	DCLA	\$5,000.00	126	003 *
Cornegy	Ifetayo Cultural Arts Academy, Inc. - Brighter Choice Middle School	11-3027538	DCLA	\$5,000.00	126	003
Cornegy	Ifetayo Cultural Arts Academy, Inc. - Boys and Girls High School	11-3027538	DCLA	\$10,000.00	126	003
Cornegy	Asase Yaa Cultural Arts Foundation - Boys and Girls High School	35-2381871	DCLA	\$20,000.00	126	003 *
Greenfield	BJHI, Inc.	46-2245413	DCLA	\$15,000.00	126	003
Greenfield	New York United Jewish Association, Inc.	26-2647383	DCLA	\$50,000.00	126	003
Greenfield	Federation of Italian American Organizations of Brooklyn, Ltd.	11-2507910	DCLA	\$50,000.00	126	003
Kallos	Bohemian Benevolent and Literary Association of the City of New York	13-0508050	DCLA	\$10,000.00	126	003
Kallos	Colonial Dames of America	13-1677400	DCLA	\$10,000.00	126	003
Kallos	New York Classical Theatre, Inc.	86-1056388	DCLA	\$10,000.00	126	003
Levin	JazzReach Performing Arts & Education Association, Inc.	11-3179208	DCLA	\$20,000.00	126	003 *
Torres	Renaissance Youth Center	13-4122438	DCLA	\$20,000.00	126	003
Torres	Girl Be Heard Institute	27-1848709	DCLA	\$5,000.00	126	003
Torres	Mindbuilders Creative Arts, Inc.	13-2988157	DCLA	\$10,000.00	126	003
Torres	Publicolor, Inc.	13-3912768	DCLA	\$20,000.00	126	003
Lancman	A Better Jamaica, Inc.	11-3804421	DCLA	\$10,000.00	126	003
King	I'RAISE Girls & Boys International Corporation **	46-3299217	DCLA	(\$35,000.00)	126	003
King	I'RAISE Girls & Boys International Corporation **	46-3299217	DYCD	\$35,000.00	260	312

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 13: HIV/AIDS Faith Based Initiative - Fiscal 2018

Borough	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A *
	Department of Health and Mental Hygiene**	13-6400434	DOHMH	(\$80,000.00)	816	112
Queens Delegation	Planned Parenthood of New York City, Inc.	13-2621497	DOHMH	\$20,000.00	816	112 *

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 14: Art as a Catalyst for Change - Fiscal 2018

Organization - School	EIN Number	Agency	Amount	Agy #	U/A	*
Brooklyn Music School - Middle School - The School for Integrated Learning	11-6000202	DCLA	(\$18,000.00)	126	003	
Brooklyn Music School - Ebbets Field Middle School - 17K352	11-6000202	DCLA	\$18,000.00	126	003	
New Heritage Theatre Group - Eagle Academy for Young Men III	13-2683678	DCLA	(\$18,000.00)	126	003	
New Heritage Theatre Group - Harlem Renaissance 05M285	13-2683678	DCLA	\$18,000.00	126	003	

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 15: Job Training and Placement Initiative - Fiscal 2018

Organization - Program	EIN Number	Agency	Amount	Agy #	U/A	*
Consortium for Worker Education (CWE)	13-3564313	DSBS	(\$200,000.00)	801	011	
Consortium for Worker Education (CWE) - Make the Road New York	13-3564313	DSBS	\$150,000.00	801	011	
Consortium for Worker Education (CWE) - The Association of Legal Aid Attorneys UAW Local 2325	13-3564313	DSBS	\$50,000.00	801	011	

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 16: Community Schools - Fiscal 2018

Organization	EIN Number	Agency	Amount	Agy #	U/A	*
United Federation of Teachers	13-9226721	DOE	(\$1,500,000.00)	040	454	
New York City Community Learning Schools Initiative, Inc.	46-1227433	DOE	\$1,500,000.00	040	454	

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 17: Discretionary Child Care Initiative - Fiscal 2018

Organization	EIN Number	Agency	Amount	Agy #	U/A	*
Administration for Children's Services **	13-6400434	ACS	(\$11,995.00)	068	004	

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

December 19, 2017

CHART 18: Naturally Occurring Retirement Communities (NORCs) - Fiscal 2018

Organization	EIN Number	Agency	Amount	Agy #	U/A	*
Department for the Aging **	13-6400434	DFTA	(\$28,005.00)	125	003	

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 19: Adult Literacy Initiative - Fiscal 2018

Organization - Program	EIN Number	Agency	Amount	Agy #	U/A	*
Department of Youth and Community Development **	13-6400434	DYCD	(\$80,000.00)	260	005	

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 20: Senior Centers, Programs, and Enhancements - Fiscal 2018

Organization - Program	EIN Number	Agency	Amount	Agy #	U/A	*
Sephardic Community Youth Center, Inc. - House of Jacob	11-2567809	DFTA	(\$183,000.00)	125	003	
Sephardic Multi Service Senior Citizens Center, Inc. - House of Jacob	11-2301220	DFTA	\$183,000.00	125	003	

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 21: Immigrant Resource Initiative - Fiscal 2018

Organization - Program	EIN Number	Agency	Amount	Agy #	U/A	*
Catholic Charities Community Services, Archdiocese of New York	13-5562185	DSS/HRA	(\$50,000.00)	098	002	
Catholic Charities Neighborhood Services, Inc.	11-2047151	DSS/HRA	\$50,000.00	069	107	
Make the Road New York	11-3344389	DSS/HRA	(\$50,000.00)	069	107	
New York Legal Assistance Group, Inc.	13-3505428	DSS/HRA	\$50,000.00	069	107	
Public Health Solutions	13-5669201	DSS/HRA	(\$50,000.00)	069	107	
Public Health Solutions**	13-5669201	DOHMH	\$50,000.00	816	117	
Catholic Charities Community Services, Archdiocese of New York	13-5562185	DSS/HRA	(\$60,000.00)	069	107	
Catholic Charities Community Services, Archdiocese of New York**	13-5562185	DYCD	\$60,000.00	260	005	
South Asian Council for Social Services	11-3632920	DSS/HRA	(\$50,000.00)	069	107	
South Asian Council for Social Services**	11-3632920	DYCD	\$50,000.00	260	005	
Brooklyn Alliance, Inc.	11-2145956	DSS/HRA	(\$50,000.00)	069	107	
Brooklyn Alliance, Inc.**	11-2145956	DYCD	\$50,000.00	260	005	

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 22: Ending the Epidemic Initiative - Fiscal 2018

Organization - Program	EIN Number	Agency	Amount	Agy #	U/A	*
Department of Health and Mental Hygiene	13-6400434	DOHMH	(\$228,630.00)	816	112	
Community Research Initiative on AIDS, Inc.	13-3632234	DOHMH	\$228,630.00	816	112	

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 23: Home Loan Program - Fiscal 2018

Organization - Program	EIN Number	Agency	Amount	Agy #	U/A
Housing Preservation and Development	13-6400434	HPD	(\$750,000.00)	806	009
Neighborhood Housing Services of Brooklyn (Bedford-Stuyvesant) CDC, Inc.	47-1717438	HPD	\$75,000.00	806	009
Neighborhood Housing Services of Queens CDC, Inc.	47-1267077	HPD	\$150,000.00	806	009
Neighborhood Housing Services of Staten Island, Inc.	20-5689079	HPD	\$150,000.00	806	009
Bronx Neighborhood Housing Services CDC, Inc.	47-1006046	HPD	\$150,000.00	806	009
Neighborhood Housing Services of Brooklyn CDC, Inc.	47-1169779	HPD	\$75,000.00	806	009
Neighborhood Housing Services of New York City, Inc.	13-3098397	HPD	\$150,000.00	806	009

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 24: Local Initiatives - Fiscal 2017

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
King	New Testament Temple	13-3762440	DYCD	(\$10,000.00)	260	005			
King	New Testament Temple Church of God, Inc.	13-3762440	DYCD	\$10,000.00	260	005			
Corney	Audre Lorde Project, Inc.	06-1502452	DYCD	(\$5,000.00)	260	005			
Corney	Audre Lorde Project, Inc., The	06-1502452	DYCD	\$5,000.00	260	005			
Van Bramer	Corpus Christi Church	11-1666228	DYCD	(\$5,000.00)	260	312			
Van Bramer	Roman Catholic Church of Corpus Christi	11-1666228	DYCD	\$5,000.00	260	312			
Garodnick	Getting Out and Staying Out, Inc.	06-1711370	DYCD	(\$6,500.00)	260	005			
Speaker	Getting Out and Staying Out, Inc.	06-1711370	DYCD	(\$75,000.00)	260	312			
Garodnick	Getting Out and Staying Out	06-1711370	DYCD	\$6,500.00	260	005			
Speaker	Getting Out and Staying Out	06-1711370	DYCD	\$75,000.00	260	312			
Matteo	United Staten Island Veterans Organization, Inc.	13-3906171	DYCD	(\$5,000.00)	260	005			
Matteo	United Staten Island Veterans Organization, Inc., The	13-3906171	DYCD	\$5,000.00	260	005			
Lancman	American Bangali Hindu Foundation, Inc	26-0741506	DYCD	(\$5,000.00)	260	312			
Lancman	Queens Community House, Inc.	11-2375583	DYCD	\$5,000.00	260	312			
Cabrera	First Bible Church of the Lords Mission, The	32-0177322	DYCD	(\$5,000.00)	260	005			
Cabrera	Mosholu Preservation Corporation	13-3109387	DYCD	\$5,000.00	260	005			
Cabrera	Worldwide Association of Small Churches, Inc.	27-3471540	DYCD	(\$7,000.00)	260	005			
Cabrera	Fordham Road District Management Association, Inc., The	26-0117797	DYCD	\$7,000.00	260	005			

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 25: Youth Discretionary - Fiscal 2017

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
Perkins	Harlem Junior Tennis League	13-3076419	DYCD	(\$5,000.00)	260	312			
Perkins	Harlem Junior Tennis and Education Program, Inc.	13-3076419	DYCD	\$5,000.00	260	312			
Constantinides	Corpus Christi Church	11-1666228	DYCD	(\$5,000.00)	260	312			
Constantinides	Roman Catholic Church of Corpus Christi	11-1666228	DYCD	\$5,000.00	260	312			
Gentile	Our Lady of Perpetual Help Baseball /Soccer League	11-1666873	DYCD	(\$3,000.00)	260	312			
Menchaca	Our Lady of Perpetual Help Baseball /Soccer League	11-1666873	DYCD	(\$5,000.00)	260	312			
Gentile	Roman Catholic Church of Our Lady of Perpetual Help	11-1666873	DYCD	\$3,000.00	260	312			
Menchaca	Roman Catholic Church of Our Lady of Perpetual Help	11-1666873	DYCD	\$5,000.00	260	312			
Lancman	Cultural Collaborative Jamaica, Inc.	11-3635991	DYCD	(\$5,000.00)	260	312			
Lancman	Child Center of New York, Inc.	11-1733454	DYCD	\$5,000.00	260	312			

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 26: Local Initiatives - Fiscal 2016

Member	Organization - Program	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
Levine	Harlem Historical Society	13-4088101	DYCD	(\$5,000.00)	260	005			*
Levine	Harlem Historical Society	80-0965297	DYCD	\$5,000.00	260	005			

* Indicates pending completion of pre-qualification review.

** Requires a budget modification for the changes to take effect

CHART 27: Purpose of Funds Changes - Fiscal 2018

Source	Member	Organization	EIN Number	Agency	Amount	New Purpose of Funds	*
Local	Johnson	Publicolor, Inc.	13-3912768	DYCD	(\$5,000.00)	To support Paint Club, an after-school program that works with at-risk students and volunteers to transform their schools and nearby community facilities by painting them.	
Local	Johnson	Publicolor, Inc.	13-3912768	DYCD	\$5,000.00	Funding will support COLOR Club and Next Steps programs.	
Local	Adams	City Parks Foundation	13-3561657	DPR	(\$25,000.00)	To provide funding support for City Parks Tennis & City Parks Golf, to provide free equipment and free sports instruction to youth twice a week for 6-8 weeks.	
Local	Adams	City Parks Foundation	13-3561657	DPR	\$25,000.00	Funding will support City Parks Foundation's sports and It's My Park programs in Council District 28.	
Parks Equity Initiative	Mendez	City Parks Foundation	13-3561657	DPR	(\$46,500.00)	Funds will be used to assist neighborhood groups with parks funding: 1) \$7,000 - August St. Gaudens Playground; 2) \$3,500 - Stuyvesant Square Park; 3) \$3500 - First Park; 4) \$3000 - Corlears Hook Park; 5) \$3500 - Vincent F. Albano Jr. Playground; 6) 3500 - Bellevue Park South; 7) 20,000 East River Park Coalition; 8) Tompkins Square Park-\$2,500; 9) East River Park sports program-\$20,000; 10) Community Garden Coalition-\$12,500; 11) Carmen Pabon's Bello Amanecer Garden-\$1,500; 12) City Arts Mural at Henry Jackson Park-\$8,000	
Parks Equity Initiative	Mendez	City Parks Foundation	13-3561657	DPR	\$46,500.00	Funding will support City Parks Foundation's Parks Equity Initiative services in Council District 2.	
Parks Equity Initiative	Cabrera	City Parks Foundation	13-3561657	DPR	(\$20,000.00)	Funds will be used to support expansion of "It's my park" in District 14.	
Parks Equity Initiative	Cabrera	City Parks Foundation	13-3561657	DPR	\$20,000.00	Funding will support City Parks Foundation's Parks Equity Initiative services in Council District 14.	
Local	Kallos	Friends of the Upper East Side Historic Districts	13-3193351	DCLA	(\$12,600.00)	To support general operating expenses of programming and services.	
Local	Kallos	Friends of the Upper East Side Historic Districts	13-3193351	DCLA	\$12,600.00	To maintain and expand architectural education programs taught during the school day to public school students in Council District 5.	
Youth	Chin	Hester Street Collaborative, Inc.	20-0774906	DYCD	(\$5,000.00)	To support the Ground Up program in afterschool hours at M.S. 131.	
Youth	Chin	Hester Street Collaborative, Inc.	20-0774906	DYCD	\$5,000.00	Funds will support HSC staff to create materials, do community outreach, and host workshops for youth regarding the Lower Manhattan Coastal Resiliency project's waterfront improvement and coastal flooding protection plan.	

CHART 28: Beating Hearts Initiative - Fiscal 2018

Member	Organization	EIN Number	*
Cumbo	Brown Memorial Baptist Church	11-1962041	
Cumbo	Brown Memorial Baptist Church	11-1962041	
Mealy	Saratoga Senior Center Council, Inc.	11 2453853	
Mealy	Families United, Inc.	11 3388067	
Mealy	Shalom Senior Center	11 2322490	
Mealy	Lincoln Terrace Tennis Association	04 3672661	
Lancman	Jamaica Muslim Center	11-2642105	
Lancman	Jamaica Muslim Center	11-2642105	
Lancman	Torah Center of Hillcrest	11-2527891	
Lancman	CHAZAQ Organization USA, Inc.	46-2148352	

*****Staten Island Heart Society, Inc. has received \$350,000 that will go towards providing automated external defibrillators (AEDs) to non-profit organizations that primarily serve the youth and aging populations. The non-profit organizations are listed above.**

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, COREY D. JOHNSON, HELEN K. ROSENTHAL, STEVEN MATTEO; Committee on Finance, December 19, 2017.

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. 834

Report of the Committee on Finance in favor of a Resolution approving Banana Kelly, Block 2711, Lots 13, 14 and 16; Bronx, Community District No. 2, Council District No. 17.

The Committee on Finance, to which the annexed preconsidered Land Use item was referred on December 19, 2017, and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

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

December 19, 2017

TO: Hon. Julissa Ferreras-Copeland
Chair, Finance Committee
Members of the Finance Committee

FROM: Eric Bernstein, Counsel, Finance Division
Rebecca Chasan, Counsel, Finance Division

RE: Finance Committee Agenda of December 19, 2017 - Resolution approving a tax exemption for one Land Use item (Council District 17)

Item 1: Banana Kelly

Banana Kelly (the “project”) is a group of three (3) adjacent and connected buildings in the Foxhurst neighborhood of the South Bronx. The buildings are located at 936 Kelly Street, 940 Kelly Street, and 944 Kelly Street. The project currently contains twenty-one (21) rental units, including one (1) studio, six (6) one-bedrooms, three (3) two-bedrooms, and eleven (11) three-bedrooms (inclusive of one superintendent’s unit). The buildings have separate addresses and tax lots, but share a boiler. There is one commercial office space in the project.

The project is owned by Banana Kelly Housing Development Fund Corporation (HDFC), a corporation formed under the Not-For-Profit Corporation Law and Article XI of the Private Housing Finance Law. The buildings are property-managed by H.S.C. Corporation, a firm recommended by the Department of Housing Preservation and Development (HPD)’s Asset Management division.

The goals of the project are to finance the moderate rehabilitation and the energy and water efficiency needs of these properties; assist the HDFC in converting to a limited equity cooperative; formalize affordability restrictions through a regulatory agreement; and provide a new Article XI exemption with a retroactive date back to July 1, 2013 to cover the accrued tax arrears from 2002-2004. The project currently does not receive an exemption from real property taxes. The retroactive Article XI exemption will not only resolve the accrued tax arrears, but will also allow the project to maintain affordable maintenance fees/rents by preventing the need for the HDFC to raise maintenance fees/rents to cover debt service.

As part of the current project, HPD is working with the HDFC and their attorney to complete the coop conversion process. The coop conversion will take place after the construction loan closing. At the coop conversion, the properties will be conveyed from the current not-for-profit corporation to a newly-formed business corporation.

Summary:

- Borough: Bronx
- Block 2711, Lots 13, 14 and 16
- Council District-17
- Council Member-Salamanca
- Council Member approval-Yes
- Number of buildings: 3
- Number of units: 21, plus one office space
- Type of exemption: Article XI tax exemption, Full, 40 years
- Population: Cooperative housing for low-income households (currently the building is operated as a rental)
- Sponsor-Banana Kelly HDFC
- Cost to the city: \$1.1M
- Housing code violations: N/A
- Anticipated AMI targets:
 - Initial maintenance fees: 35% AMI
 - Vacant units: Priced to households earning up to 110% AMI
 - Incomes: capped at 120% AMI

Accordingly, this Committee recommends its adoption.

In connection herewith, Council Member Ferreras-Copeland offered the following resolution:

Res. No. 1785

Resolution approving an exemption from real property taxes for property located at (Block 2711, Lots 13, 14 and 16) Bronx, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 834).

By Council Member Ferreras-Copeland.

WHEREAS, the New York City Department of Housing Preservation and Development (“HPD”) submitted to the Council its request dated November 28, 2017 that the Council take the following action regarding a housing project located at (Block 2711, Lots 13, 14 and 16) Bronx (“Exemption Area”):

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

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

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

RESOLVED:

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

1. For the purposes hereof, the following terms shall have the following meanings:
 - a. “Effective Date” shall mean July 1, 2013.
 - b. “Exemption” shall mean the exemption from real property taxation provided hereunder.
 - c. “Exemption Area” shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 2711, Lots 13, 14, and 16 on the Tax Map of the City of New York.
 - d. “Expiration Date” shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - e. “HDFC” shall mean Banana Kelly Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - f. “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.
 - g. “Owner” shall mean the HDFC.
 - h. “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. 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, commercial or community facility use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
3. 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) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or 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 HDPC, the Owner, or any past owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
4. In consideration of the Exemption, the owner of the Exemption Area, 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.

JULISSA FERRERAS-COPELAND, *Chairperson*; YDANIS A. RODRIGUEZ, JAMES G. VAN BRAMER, VANESSA L. GIBSON, ROBERT E. CORNEGY, Jr., LAURIE A. CUMBO, COREY D. JOHNSON, HELEN K. ROSENTHAL, STEVEN MATTEO; Committee on Finance, December 19, 2017.

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 General Welfare

Report for Int. No. 572-A

Report of the Committee on General Welfare in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring the department of homeless services to post shelter census data.

The Committee on General Welfare, to which the annexed proposed amended local law was referred on December 8, 2014 (Minutes, page 4334), respectfully

REPORTS:

I. Introduction

On December 18, 2017, the Committee on General Welfare, chaired by Council Member Stephen Levin will hold a hearing to consider five pieces of legislation. Proposed Int. No. 572-A, in relation to requiring the

department of homeless services to post shelter census data, Proposed Int. No. 855-B, in relation to a study regarding the feasibility of notifying individuals who may be eligible for public assistance, Proposed Int. No. 1577-A, in relation to requiring the office of operations or another office or agency designated by the mayor to conduct a study regarding client information management systems, Proposed Int. No. 1714-A, in relation to educational continuity, and Proposed Int. No. 1739-A, in relation to exits from domestic violence emergency shelters. This will be the second hearing on all the bills. Proposed Int. No. 572-A and Proposed Int. No. 1714-A were first heard on October 11, 2017, Proposed Int. No. 1739-A was first heard on October 30, 2017, and Proposed Int. 855-B and Proposed Int. 1577-A were first heard on June 27, 2017. At those hearings, representatives from the Human Resources Administration (HRA), Department of Homeless Services (DHS), advocates, providers and other concerned members of the community testified. Amendments were made to all the bills after the hearings.

II. Bill Analysis

Proposed Int. No. 572 - in relation to requiring the department of homeless services to post shelter census data

Proposed Int. No. 572-A would require DHS to post a daily report, Monday through Friday, on its website with information on the daily shelter census. This information would include the total number of individuals in shelter broken down by the number of single adults, the number of families with children, and the number of adult families in the shelter system. The number of single adults in the system would include the number of individuals in a drop-in center overnight; the number of individuals in faith-beds; the number of individuals utilizing safe havens; the number of individuals in short-term housing for veterans; and the number of individuals in criminal justice short-term housing. Proposed Int. No. 572-A would take effect immediately.

After the first hearing on Proposed Int. 572-A, the bill was amended to remove the requirement to disaggregate all the required data by borough.

Proposed Int. No. 855-B - in relation to a study regarding the feasibility of notifying individuals who may be eligible for public assistance

Proposed Int. No. 855-B would require the Mayor's Office of Operations Mayor's Office of Operations to produce a study and submit it to the Speaker by December 31, 2018, regarding the feasibility and cost of utilizing City administrative data to determine individuals who are likely eligible for public assistance and to provide notice to those individuals of their likely eligibility. For the purposes of Proposed Int. No. 855-B, public assistance means all forms of public benefits provided by the federal government, state of New York, or city of New York that an individual may apply for through City, including but not limited to: cash assistance, the home energy assistance program, Medicaid, rent increase exemptions, childcare subsidies, and the supplemental nutrition assistance program.

The study required pursuant to Proposed Int. 855-B would be required to include the following:

- Assessing the city's technical ability to collect, disclose, and electronically transmit City administrative data, in a manner that complies with applicable law and City and agency policies, including data provided by every individual who submits an application for public assistance or is in receipt of public assistance, in order to determine likely qualification for additional public assistance using eligibility screening tool(s);
- Identifying and assessing the means available to provide notice to an individual of any public assistance or additional public assistance for which the individual may qualify. Such notice may include a copy of the relevant applications and instructions on how to apply. In instances where public assistance may be applied for or renewed online, the office would consider how notice may include a link to access the application or renewal online, and the option for individuals to decline receiving applications or renewals in paper form;
- Assessing the technical ability to provide pre-filled applications with information obtained from an individual's initial public assistance application or other existing City administrative data;

- Considering the implications of notifying individuals of their likely eligibility for certain public assistance benefits that, if claimed, may affect their eligibility for existing or other public assistance benefits; and
- Identifying additional options for the city to provide individuals with assistance in completing public assistance applications, including but not limited to online, over the phone through 311 and at a city agency accepting public assistance applications.

After the first hearing on Proposed Int. 855-B, it was amended to require the Mayor's Office of Operations to study the feasibility of implementing the requirements listed in the legislation, instead of requiring HRA to implement such requirements.

Proposed Int. No. 1577-A – in relation to requiring the office of operations or another office or agency designated by the mayor to conduct a study regarding client information management systems

Proposed Int. No. 1577-A would require the Mayor's Office of Operations to complete a study on client information management systems by December 31, 2018. For the purposes of Proposed Int. 1577-A, client information management system would mean any electronic software used to collect, record, or manage information about social services that individuals may apply for or receive. The study would include an assessment of efforts to update and integrate systems of agencies that provide social services, including but not limited to the Department of Social Services (DHS and HRA), the Administration for Children's Services, the Department of Education, and the Department for Housing Preservation and Development; strategies to help facilitate information sharing among such agencies to improve inter-agency coordination; an examination of how such agencies can use digital tools to best serve clients; identification and recommendations of upgrades to client information management systems that interact with client information management systems serving city residents; and recommendations of how the City can continue to monitor and evaluate existing systems in order to remain current in the use of technology. Proposed Int. 1577-A would require the Office of Operations to submit annual report on its findings and recommendations by March 30, 2019, as well as a progress update each year for three years after the release of the report.

After the first hearing on Proposed Int. 1577-A, the legislation was amended to change the bill from creating a Mayoral Office to examine the issue, to requiring the Office of Operations to examine the issue through the study and subsequent reports.

Proposed Int. No. 1714 – in relation to an educational continuity unit

Proposed Int. 1714-A would require DHS to permit Department of Education (DOE) staff access to intake facilities for the purpose of holding discussions with shelter applicants on educational continuity. The bill would require such staff to inform shelter applicants about the rights of homeless students with respect to educational rights and transportation, early childhood care, early childhood education and early intervention services. Staff would provide families with information on students' rights under the federal McKinney-Vento Homeless Assistance Act and any information provided to families would include contact information for DOE. In the event a representative of DOE is unavailable to hold such a discussion, contact information for relevant staff at DOE would be provided to a shelter applicant along with written materials and information.

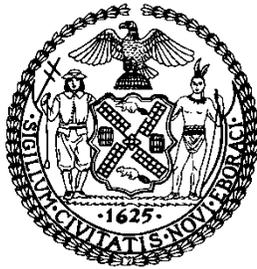
Proposed Int. No. 1739-A - in relation to in relation to exits from domestic violence emergency shelters

Proposed Int. No.1739- A would require HRA to issue an annual reports, starting March 1, 2019 and every March 1 thereafter, on the number of individuals and the number of families who exit domestic violence emergency shelters operated by HRA and the type of housing where the individuals and families would be residing upon exiting emergency shelter. The housing types would include, (i) a New York city housing authority apartment; (ii) an apartment with a rental subsidy, disaggregated by the type of subsidy; (iii) a private

apartment with no rental subsidy; (iv) supportive housing; (v) shelter operated by or under contract or similar agreement with the department of homeless services; (viii) shelter operated by or under contract or similar agreement with the department, disaggregated by type; (ix) made own arrangements or (x) unknown or unable to validate. Proposed Int. No. 1739-A would take effect immediately.

After the first hearing on Proposed Int. No. 1739-A, the legislation was amended to remove the “affordable housing” and “location where the individual or family resided immediately prior to entering the domestic violence emergency shelter” categories. The legislation was also amended to change the category “housing of friends or family” to “made own arrangements” and the category “unknown” was changed to “unknown or unable to validate.”

(The following is the text of the Fiscal Impact Statement for Int. No. 572-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 572-A

COMMITTEE: General Welfare

TITLE: A local law to amend the administrative code of the city of New York, in relation to requiring the department of homeless services to post shelter census data

SPONSORS: Council Members Crowley, Cabrera, Eugene, Gentile, Koo, Miller, Johnson, Cohen, Cornegy, Mealy, Mendez, Maisel, King, Vallone, Constantinides, Menchaca and Ulrich

SUMMARY OF LEGISLATION: Proposed Int. 572-A would require the department of Homeless Services (DHS) to post a daily report on its website with information on the daily shelter census no later than January 31, 2018, and every weekday, Monday through Friday, thereafter. This information would include the total number of individuals in shelter broken down by the number of single adults, children, the number of families with children, and the number of adult families in the shelter system.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because DHS already collects the aforementioned information and can use existing resources to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Nameera Nuzhat, Financial Analyst

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director
Rebecca Chasan, Counsel
Dohini Sompura, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the Council on December 8, 2014 as Intro. No. 572 and was referred to the Committee on General Welfare. The Committee on General Welfare considered the legislation at a hearing held jointly with the Committee on Education on October 11, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 572-A, will be voted on by the Committee on General Welfare at a hearing on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 572-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

(For text of Int. Nos. 855-B, 1577-A, 1714-A, and 1739-A and their Fiscal Impact Statements, please see, respectively, the Reports of the Committee on General Welfare for Int. Nos. 855-B, 1577-A, 1714-A, and 1739-A printed in these Minutes; for text of Int. No. 572-A, please see below)

Accordingly, this Committee recommends the adoption of Int. 572-A, 855-B, 1577-A, 1714-A, and 1739-A.

(The following is the text of Int. No. 572-A:)

Int. No. 572-A

By Council Members Crowley, Cabrera, Eugene, Gentile, Koo, Miller, Johnson, Cohen, Cornegy, Mealy, Mendez, Maisel, King, Vallone, Constantinides, Menchaca, Kallos, Palma, Adams and Ulrich.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of homeless services to post shelter census data

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-322 to read as follows:

§ 21-322 Daily census data. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Adult. The term "adult" means any person who is 18 years of age or older;

Adult family. The term "adult family" means a family comprising adults and no children;

Child. The term "child" means a person under 18 years of age;

Faith bed. The term "faith-bed" means a facility that provides overnight housing to individuals, are affiliated with one or more religious groups, and receive client referrals through organizations under contract with the department;

Family with children. The term "family with children" means a family with at least one adult and at least one child, couples including at least one pregnant woman, single pregnant women, or parents or grandparents with a pregnant individual;

Safe haven. The term "safe haven" means a facility operated by the department or a provider under contract or similar agreement with the department that provides low-threshold, harm-reduction housing to chronic street homeless individuals, who are referred to such facilities through a department outreach program, without the obligation of entering into other supportive and rehabilitative services in order to reduce barriers to temporary housing;

Shelter. The term "shelter" means temporary emergency housing provided to homeless adults, adult families, and families with children by the department or a provider under contract or similar agreement with the department;

Short-term housing for veterans. The term "short-term housing for veterans" means a facility that provide short-term housing for people who actively served in the United States military;

Single adult. The term "single adult" means an adult without an accompanying adult or child.

b. No later than January 31, 2018, and every weekday, Monday through Friday, thereafter, the department shall post on its website a shelter census report for the prior calendar day immediately preceding such weekday, excluding holidays. Such report shall include but not be limited to the following information regarding individuals in shelter each such calendar day:

- 1. The total number of individuals, disaggregated by the number of adults and the number of children;*
- 2. The number of single adults, disaggregated by the number of single men and the number of single women;*
- 3. The number of families with children, disaggregated by the number of adults in such families with children, the number of children in such families with children, and the total number of individuals comprising such families with children;*
- 4. The number of adult families in shelter, including the total number of individuals comprising such adult families;*
- 5. The following information on single adults, including but not limited to:*
 - (a) The number of individuals in a drop-in center overnight;*
 - (b) The number of individuals in faith-beds;*
 - (c) The number of individuals utilizing safe havens;*
 - (d) The number of individuals in short-term housing for veterans; and*
 - (e) The number of individuals in criminal justice short-term housing.*

§ 2. This local law shall take effect immediately.

STEPHEN T. LEVIN, *Chairperson*; ANNABEL PALMA, FERNANDO CABRERA, VANESSA L. GIBSON, COREY D. JOHNSON, RITCHIE J. TORRES; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ADRIENNE E. ADAMS; Committee on General Welfare, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 855-B

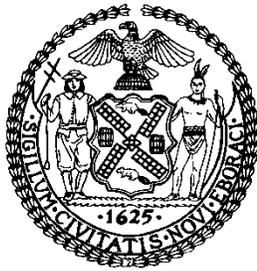
Report of the Committee on General Welfare in favor of approving and adopting, as amended, a Local Law to amend administrative code of the city of New York, in relation to a study regarding the feasibility of notifying individuals who may be eligible for public assistance.

The Committee on General Welfare, to which the annexed proposed amended local law was referred on July 23, 2015 (Minutes, page 2957), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on General Welfare for Int. No. 572-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 855-B:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 855-B

COMMITTEE: General Welfare

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to a study regarding the feasibility of notifying individuals who may be eligible for public assistance

SPONSORS: Council Members Kallos, Wills, Rosenthal, Reynoso, Richards, Rodriguez, Menchaca, Perkins, Lander, Williams, Van Bramer, Johnson, Chin, Levin and the Public Advocate (Ms. James)

SUMMARY OF LEGISLATION: Proposed Int. 855-B would require the Mayor’s Office of Operations (MOO) to produce a study by December 31, 2018, regarding the feasibility and cost of utilizing City administrative data to identify individuals who might be eligible for public assistance and to provide notice to those individuals of their likely eligibility for other benefits. The study would include all forms of public assistance for which an individual can apply through the City.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation. MOO serves as a research hub and consist of the office of Data Analytics as well as HHS-Connect unit which manages digital and cross-agency initiatives designed to increase City residents' access to resources and enhance the City's capacity to deliver services. Therefore, MOO can use existing resources to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Nameera Nuzhat, Financial Analyst

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director
Rebecca Chasan, Counsel
Dohini Sompura, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the Council on July 23, 2015 as Intro. No. 855 and was referred to the Committee on General Welfare (Committee). The legislation was amended after it was introduced and the amended version, Proposed Intro. No. 855-A, was considered by the Committee at a hearing held on June 27, 2017 and the legislation was laid over. The legislation was subsequently amended again and the amended version, Proposed Intro. No. 855-B, will be voted on by the Committee at a hearing on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 855-B will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 855-B:)

Int. No. 855-B

By Council Members Kallos, Rosenthal, Reynoso, Rose, Richards, Rodriguez, Menchaca, Perkins, Lander, Williams, Van Bramer, Johnson, Chin, Levin, Palma, Adams, Barron and the Public Advocate (Ms. James).

A Local Law to amend administrative code of the city of New York, in relation to a study regarding the feasibility of notifying individuals who may be eligible for public assistance

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-120 to read as follows:

§ 3-120 Study on notification of public assistance eligibility a. Definitions. For the purposes of this section, the following terms have the following meanings:

Notice. The term "notice" means a written communication sent through the mail or by electronic means.

Public assistance. The term “public assistance” means all forms of public benefits provided by the federal government, state of New York, or city of New York for which an individual may apply through the city including but not limited to: cash assistance; the home energy assistance program; medicaid; rent increase exemptions; child care subsidies; and the supplemental nutrition assistance program.

Renewal. The term “renewal” means the automatic or affirmative act of recertifying or re-applying for public assistance, as may be required on a periodic basis, for an individual already receiving such public assistance.

City administrative data. The term “administrative data” means data, including but not limited to individually identifiable data, that is maintained in databases managed by the city of New York, including but not limited to those maintained by the department of social services, the department of finance, the administration for children’s services, the department of small business services and the department of housing preservation and development.

Office. The term “office” means the office of operations established pursuant to section 15 of the charter or any other office or agency designated by the mayor.

b. By December 31, 2018, the office, in collaboration with relevant agencies, shall complete a study regarding the feasibility and cost to the city of utilizing city administrative data to identify individuals who are likely eligible for public assistance and providing notice to such individuals of their likely eligibility. Such study shall include, but need not be limited to:

1. Assessing the city’s technical ability to collect, disclose, and electronically transmit city administrative data, in a manner that complies with applicable law and city and agency policies, including data provided by every individual who submits an application for public assistance or is in receipt of public assistance, in order to determine likely qualification for additional public assistance using eligibility screening tool(s);

2. Identifying and assessing the means available to provide notice to an individual of any public assistance or additional public assistance for which an the individual may qualify. Such notice may include a copy of the relevant applications and instructions on how to apply for such public assistance. In instances where public assistance may be applied for or renewed online, the office shall consider how notice may include a link to access the application or renewal online, and the option for individuals to decline receiving applications or renewals in paper form;

3. Assessing the technical ability to provide pre-filled applications with information obtained from an individual’s initial public assistance application or other existing city administrative data, in a manner that complies with applicable law and city and agency policies, such assessment considering: (i) renewal applications where an individual is already receiving such public assistance, (ii) in instances where public assistance may be applied for or renewed online, how an individual may be provided with a link to securely access the applicable public benefit application online that has been pre-filled with information obtained from such individual’s last public benefit application along with instructions, and (iii) the implications of enabling individuals to decline receiving applications or renewals in paper form;

4. Considering the implications of notifying individuals of their likely eligibility for certain public assistance benefits that, if claimed, may affect their eligibility for existing or other public assistance benefits;

5. Identifying additional options for the city to provide individuals with assistance in completing public assistance applications, including but not limited to online, over the phone through 311 and at a city agency

§ 2. This local law takes effect immediately

STEPHEN T. LEVIN, *Chairperson*; ANNABEL PALMA, FERNANDO CABRERA, VANESSA L. GIBSON, COREY D. JOHNSON, RITCHIE J. TORRES; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ADRIENNE E. ADAMS; Committee on General Welfare, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 1577-A

Report of the Committee on General Welfare in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York city, in relation to requiring the office of operations or another office or agency designated by the mayor to conduct a study regarding client information management systems

The Committee on General Welfare, to which the annexed proposed amended local law was referred on April 25, 2017 (Minutes, page 1151), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on General Welfare for Int. No. 572-A printed in these Minutes)

The following is from the text of the Fiscal Impact Statement for Int. No. 1577-A:

SUMMARY OF LEGISLATION: Proposed Int. 1577-A would require would require the Mayor’s Office of Operations (MOO) to study Client Information Management Systems used by certain agencies. Systems are any electronic software used to collect, record, or manage information about social services that individuals may apply for or receive. The study would include an assessment of efforts to update and integrate systems of agencies that provide social services including but not limited to the Department of Social Services, the Department of Homeless Services, the Administration for Children’s Services, the Department of Education, and the Department of Housing Preservation and Development. It would also include strategies to help facilitate information sharing among such agencies to improve inter-agency coordination, an examination of how such agencies can use digital tools to best serve clients, and recommendations of how the City can continue to monitor and evaluate existing systems in order to remain current in the use of technology. The bill would require MOO to submit annual report on its findings and recommendations as well as a progress update each year for three years after the release of the report.

EFFECTIVE DATE: The legislation would take effect immediately and would remain in effect until March 30, 2021 after which it would be deemed repealed.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation. The aforementioned agencies have existing Client Information Management

Systems and use digital tools in varying degrees to serve clients. The Mayor's Office of Operations serves as a research hub and consists of the office of Data Analytics as well as HHS-Connect unit which manages digital and cross-agency initiatives designed to increase City residents' access to resources and enhance the City's capacity to deliver services. Therefore MOO can use existing resources to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Nameera Nuzhat, Financial Analyst

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director
Rebecca Chasan, Counsel
Dohini Sompura, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the Council on April 25, 2017 as Intro. No. 1577 and was referred to the Committee on Governmental Operations. On May 4, 2017, the legislation was referred to the Committee on General Welfare. The Committee on General Welfare considered the legislation at a hearing held on June 27, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1577-A, will be voted on by the Committee at a hearing on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1577-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1577-A:)

Int. No. 1577-A

By Council Members Levin, Barron, Gentile, Ferreras-Copeland, Kallos, Palma, Johnson, Adams and Menchaca

A Local Law to amend the administrative code of the city of New York city, in relation to requiring the office of operations or another office or agency designated by the mayor to conduct a study regarding client information management systems

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of Chapter 1 of the administrative code of the city of New York is amended by adding a new section 3-121 to read as follows:

§ 3-121 Client information management systems study. a. Definitions. For the purposes of this section the following terms have the following meanings:

Client information management system. The term "client information management system" means any electronic software used to collect, record, or manage information about social services that individuals may apply for or receive.

Office. The term "office" means the office of operations established pursuant to section 15 of the charter or any other office or agency designated by the mayor.

b. By December 31, 2018, the office, in consultation with the relevant agencies as set forth in this subdivision, shall complete a study regarding client information management systems. Such study shall include, but need not be limited to:

1. Assessments of efforts to update and integrate the client information management systems of agencies that provide social services to city residents, including but not limited to the department of social services, the department of homeless services, the administration for children's services, the department of education, and the department of housing preservation and development;

2. Strategies to help facilitate information sharing among such agencies so as to support improved inter-agency coordination of social services to city residents in a manner consistent with applicable laws and regulations, city and agency policies and technical requirements concerning the protection of individually identifiable information and student identifiable information;

3. Examination of how such agencies can use digital tools to interact with individuals served by such agencies, including but not limited to applying for social services, electronically uploading documents, reminders and updates by text message, electronic notification regarding available services, and potential technology investments;

4. Identification and recommendations of upgrades to client information management systems operated by the city and other governmental units that interact with client information management systems serving city residents; and

5. Recommendations of how the city can continue to monitor and evaluate existing client information management systems and updates to such systems in order to remain current in the use of technology to serve clients.

d. By March 30, 2019, the office shall report its findings and recommendations to the mayor and the speaker of the council. By March 30 of each subsequent year until March 30, 2022, the office shall submit to the mayor and the speaker of the council information detailing progress made on the recommendations that resulted from such report and any additional relevant information as determined by the office.

§ 2. This local law takes effect immediately and remains in effect until March 30, 2022, after which this local law shall be deemed repealed.

STEPHEN T. LEVIN, *Chairperson*; ANNABEL PALMA, FERNANDO CABRERA, VANESSA L. GIBSON, COREY D. JOHNSON, RITCHIE J. TORRES; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ADRIENNE E. ADAMS; Committee on General Welfare, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 1714-A

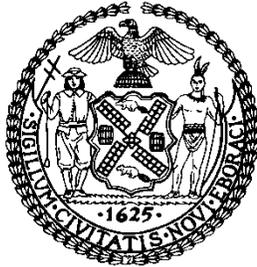
Report of the Committee on General Welfare in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to educational continuity.

The Committee on General Welfare, to which the annexed proposed amended local law was referred on September 27, 2017 (Minutes, page 3365), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on General Welfare for Int. No. 572-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1714-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 1714-A

COMMITTEE: General Welfare

TITLE: A local law to amend the administrative code of the city of New York, in relation to educational continuity

SPONSORS: Council Members Levin and Gibson

SUMMARY OF LEGISLATION: Proposed Int. 1714-A would require educational continuity materials and information be provided to families with children applying for shelter during the intake process at an intake facility, such as the Prevention Assistance and Temporary Housing (PATH) intake center. The Department of Homeless Services (DHS) would be required to permit the Department of Education (DOE) staff access to such intake facilities for the purpose of holding discussions with shelter applicants on educational continuity. Such staff would inform shelter applicants about the rights of homeless students with respect to educational rights and transportation, early childhood care, early childhood education and early intervention services. Staff would provide families with information on students’ rights under the federal McKinney-Vento Homeless Assistance Act and any information provided to families would include contact information for DOE. In the event a representative of DOE is unavailable to hold such a discussion, contact information for relevant staff at DOE would be provided to a shelter applicant along with written materials and information.

EFFECTIVE DATE: This local law would take effect 180 days after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY19	FY Succeeding Effective FY20	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because DOE and DHS can use existing resources to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Nameera Nuzhat, Financial Analyst

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director
Rebecca Chasan, Counsel
Dohini Sompura, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the Council on September 27, 2017 as Intro. No. 1461 and was referred to the Committee on General Welfare. The Committee on General Welfare considered the legislation at a hearing held jointly with the Committee on Education held on October 11, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1714-A, will be voted on by the Committee on General Welfare at a hearing on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1714-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1714-A:)

Int. No. 1714-A

By Council Members Levin, Gibson, Kallos, Palma, Johnson, Adams and Menchaca.

A Local Law to amend the administrative code of the city of New York, in relation to educational continuity

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-321 to read as follows:

§ 21-321 Educational continuity. *a. Definitions. For the purposes of this section, the following terms have the following meanings:*

Intake facility. The term “intake facility” means the location where families with children apply for temporary emergency housing with the department, such as the prevention assistance and temporary housing facility, or a successor entity.

Shelter applicants. The term “shelter applicants” means families with children in the process of applying for emergency shelter with the department at an intake facility with no prior shelter history or application for shelter within the last 90 days.

b. As part of the intake process at an intake facility, the department shall offer or otherwise make available to all shelter applicants written materials and information on educational continuity. The department shall additionally permit the department of education access to intake facilities for the purpose of holding discussions with shelter applicants on educational continuity, and shall work with the department of education to facilitate such discussions. Such materials, information, and discussions shall include but not be limited to the following:

1. Information on the education rights of any preschool-aged and school-aged children relating to school access and educational continuity rights;

2. Information on transportation and/or enrolling in a new school for any school-aged children;

3. Information relating to early childhood care and education options for shelter applicants with children under 5 years old, including 3-K and Pre-K for All, EarlyLearn, and other forms of subsidized child care, including child care vouchers;

4. Information relating to referring children for evaluations for early intervention services and preschool special education services; and

5. Information on homeless students' rights, including a summary of students' rights pursuant to the McKinney-Vento homeless assistance act of 1987, as enacted by public law 100-77.

c. Any information provided to shelter applicants concerning educational continuity shall include contact information for relevant staff at the department of education. In the event that a representative of the department of education is unavailable and is not scheduled to be available to discuss educational continuity with a shelter applicant during the intake process at an intake facility, the department shall provide such shelter applicant with written materials pursuant to subdivision b and with contact information for relevant staff at the department of education who can assist with matters related to educational continuity.

§ 2. This local law takes effect 180 days after it becomes law.

STEPHEN T. LEVIN, *Chairperson*; ANNABEL PALMA, FERNANDO CABRERA, VANESSA L. GIBSON, COREY D. JOHNSON, RITCHIE J. TORRES; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ADRIENNE E. ADAMS; Committee on General Welfare, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 1739-A

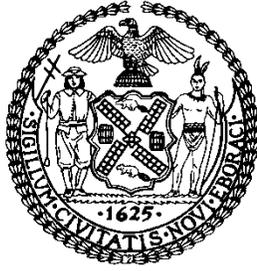
Report of the Committee on General Welfare in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to exits from domestic violence emergency shelters.

The Committee on General Welfare, to which the annexed proposed amended local law was referred on October 17, 2017 (Minutes, page 3572), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on General Welfare for Int. No. 572-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1739-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 1739-A

COMMITTEE: General Welfare

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to exits from domestic violence emergency shelters

SPONSORS: Council Members Levin and Menchaca

SUMMARY OF LEGISLATION: Proposed Int. 1739-A would require the Human Resources Administration (HRA) to issue an annual report, no later than March 1, 2019 and by every March 1 thereafter, on the number of individuals and the number of families who exit domestic violence emergency shelters operated by HRA and the type of housing where the individuals and families would be residing upon exiting emergency shelter.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues resulting from this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because HRA already collects the aforementioned information and can use existing resources to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Nameera Nuzhat, Financial Analyst

ESTIMATE REVIEWED BY: Regina Poreda Ryan, Deputy Director
Rebecca Chasan, Counsel
Dohini Sompura, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced to the Council on October 17, 2017 as Intro. No. 1739 and was referred to the Committee on General Welfare (Committee). The Committee considered the legislation at a hearing held jointly with the Committee on Women’s Issues on October 30, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1739-A, will be voted on by the Committee at a hearing on December 18, 2017. Upon successful vote by

the Committee, Proposed Intro. No. 1739-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1739-A:)

Int. No. 1739-A

By Council Members Levin, Menchaca, Kallos, Palma, Johnson and Adams.

A Local Law to amend the administrative code of the city of New York, in relation to exits from domestic violence emergency shelters

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 21 of the administrative code of the City of New York is amended by adding a new section 21-141 to read as follows:

§ 21-141 Exits from domestic violence shelters. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Domestic violence emergency shelter. The term “domestic violence emergency shelter” means time-limited housing for domestic violence survivors managed by or under a contract or similar agreement with the department and subject to section 459-b of the social services law.

Domestic violence tier II shelter. The term “domestic violence tier II shelter” means housing for domestic violence survivors managed by or under a contract or similar agreement with the department and subject to the provisions of part 900 of title 18 of the New York codes, rules, and regulations.

Exits from domestic violence shelters. The term “exits from domestic violence shelters” means a household or individual leaves a domestic violence emergency shelter.

Made own arrangements. The term “made own arrangements” means a household or individual informed the department of a planned exit from domestic violence shelter.

Rental subsidy. The term “rental subsidy” means financial assistance provided by the department for the purpose of paying a recipient’s rent on an ongoing basis and includes but is not limited to the public assistance shelter allowance provided by the department as established by section 131-a of the New York social services law, section 159 of the New York social services law, section 349 of the New York social services law, or any codes, rules and regulations, as well as subsidies provided through the living in communities rental assistance program, the city family eviction prevention supplement program and the city family exit plan supplement, the city special exit and prevention supplement, the home tenant-based rental assistance program, and any successor program to the foregoing programs. The term “rental subsidy” also includes federal rental assistance pursuant to the section 8 project based rental assistance program, or any successor program, or any programs under the United States Housing Act of 1937, as amended, providing rental assistance for the purpose of paying a recipient’s rent.

Supportive housing. The term “supportive housing” means affordable, permanent housing with support services for residents.

Unknown or unable to verify. The term “unknown or unable to verify” means a household or individual voluntarily exits from a domestic violence shelter and does not provide verifiable details about their subsequent living arrangements.

b. Not later than March 1, 2019, and on or before March 1 annually thereafter, the department shall submit to the speaker of the council and post on its website annual reports regarding exits from domestic violence

emergency shelters. Such reports shall include, but not be limited to, the total number of individuals and the total number of families who exited a domestic violence emergency shelter during the preceding calendar year, disaggregated by the type of housing such individuals and families residing in upon their exit. Such housing types shall include, but not be limited to, the following: (i) a New York city housing authority apartment; (ii) an apartment with a rental subsidy, disaggregated by the type of such subsidy; (iii) a private apartment with no rental subsidy; (iv) supportive housing; (v) shelter operated by or under contract or similar agreement with the department of homeless services; (viii) shelter operated by or under contract or similar agreement with the department, disaggregated by type, where practicable; (ix) made own arrangements or (ix) unknown or unable to validate.

§ 2. This local law takes effect immediately.

STEPHEN T. LEVIN, *Chairperson*; ANNABEL PALMA, FERNANDO CABRERA, VANESSA L. GIBSON, COREY D. JOHNSON, RITCHIE J. TORRES; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr., ADRIENNE E. ADAMS; Committee on General Welfare, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 385-C

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 indoor asthma allergen hazards in residential dwellings and pest management, and to repeal section 27-2018 of the administrative code of the city of New York, relating to rodent and insect eradication and extermination.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on June 11, 2014 (Minutes, page 2054), respectfully

REPORTS:

Introduction

On December 18, 2017, the Committee on Housing and Buildings, chaired by Council Member Jumaane D. Williams, will hold a hearing for the purposes of conducting votes on Proposed Int. No. 385-C, Proposed Int. No. 1009-A, Proposed Int. No. 1015-A, Proposed Int. No. 1036-A, Proposed Int. No. 1039-A, Proposed Int. No. 1120-A, Proposed Int. No. 1269-A, and Proposed Int. No. 1419-A.

The Committee originally heard Proposed Int. No. 385-B on June 13, 2017 and received testimony from representatives of the Department of Housing Preservation and Development (HPD), housing advocates, legal service providers, members of the real estate industry, and other interested members of the public. More information about this bill and materials for that hearing can be accessed online at <https://goo.gl/sdGwf5>

The Committee originally heard Int. No. 1009 on November 22, 2016 and the committee received testimony from representatives of HPD, housing advocates, legal service providers, members of the real estate industry, and other interested members of the public. More information about this bill and materials for that hearing can be accessed online at <https://goo.gl/vdKJDr>

The Committee originally heard Int. No. 1015 on February 22, 2016 and the committee received testimony from representatives of HPD, housing advocates, legal service providers, members of the real estate industry, and other interested members of the public. More information about this bill and materials for that hearing can be accessed online at <https://goo.gl/SfAV43>

The Committee heard Int. No. 1036, and Int. No 1039 on September 15, 2016 and received testimony from representatives of HPD, housing advocates, legal service providers, members of the real estate industry, and other interested members of the public. More information about these bills and materials for that hearing can be accessed online at <https://goo.gl/dynYf6>.

The Committee heard Int. No. 1120 on September 26, 2016 and received testimony from the Borough Presidents, representatives of the Department of Buildings (DOB), members of the real estate industry, and other interested members of the public. More information about these bills and materials for that hearing can be accessed online at <https://goo.gl/hBd3iM>

The Committee heard Int. No. 1269 on October 19, 2017 and received testimony from representatives of HPD, housing advocates, legal service providers, members of the real estate industry, and other interested members of the public. More information about this bill and materials for that hearing can be accessed online at <https://goo.gl/SRRrUX>

The Committee heard Int. No. 1419 on January 31, 2017 and received testimony from representatives of DOB, housing advocates, legal service providers, members of the real estate industry, and other interested members of the public. More information about this bill and materials for that hearing can be accessed online at <https://goo.gl/otzCfU>

Proposed Legislation

Below is a brief summary of each of the pieces of legislation being voted on by the Committee at this hearing. These summaries are intended for informational purposes only and do not substitute for legal counsel. For more detailed information, you should review the full text of each bill, which is attached below.

Proposed Int. No. 385-C

This bill sets forth owners' responsibilities in relation to indoor allergen hazards. The bill also establishes classifications of violations which the Department of Housing Preservation and Development may issue for indoor allergen hazards and dates of correction for such violations. The bill would also require the Department of Health and Mental Hygiene (DOHMH) to report on activities to educate physicians and health care providers who treat persons with asthma about the role of indoor allergens in asthma exacerbation and suggest certain addresses for Departmental investigation for indoor allergen hazards. Additionally, the legislation requires DOHMH to take certain measures to educate persons about indoor allergen hazards.

Failure to correct a violation using integrated pest management shall be \$500 per day up to \$10,000. False certification of correction of a violation is subject to a civil penalty of \$2,000 to \$10,000 for each violation. This bill takes effect one year after its enactment.

Proposed Int. No. 1009-A

This bill would require the department of Housing Preservation and Development (HPD) to create an interface to report an owner's information, including the address of each registered property owned by such owner, the number of outstanding violations for each property, the number of harassment findings on record with the department for that owner, and the number and types of departmental orders pending on each property. The department may provide the aggregate data used to create such website to the Public Advocate. This bill takes effect 270 days after the bill becomes law.

Proposed Int. No. 1015-A

This bill would create an affordable housing internet portal. It provides requirements for both the portal itself and for units that would be listed on the portal. This bill would take effect immediately after it becomes law.

Proposed Int. No. 1036-A

This bill would require the Department of Housing Preservation and Development (HPD) to conduct an analysis of vacant residential buildings and vacant lots in areas which are zoned to permit residential use. This bill would also require HPD, the Departments of Environmental Protection, Buildings and Sanitation and the Fire Department to provide the mayor with records concerning the physical condition of and services provided to any building to aid in determining whether the building or lot is vacant. This bill would take effect immediately after it becomes law.

Proposed Int. No. 1039-A

This bill would require the Department of Housing Preservation and Development (HPD) to report on the vacant buildings or lots under the jurisdiction of HPD, categorized by the potential to be developed or the feasibility of development those buildings or lots as affordable housing. This bill would take effect 180 days after it becomes law.

Proposed Int. No. 1120-A

This bill would require that the Department of Environmental Protection (the Department) be notified whenever excavation or drilling to a depth greater than 50 feet is proposed in the Bronx or north of 135th Street in Manhattan, or greater than 100 feet elsewhere in the City. If the Department determines that such proposed activity is in close proximity to critical infrastructure, proponents would be required to obtain a permit from the Department, in addition to any permits or approvals required by the Department of Buildings. This bill would take effect one year after it becomes law.

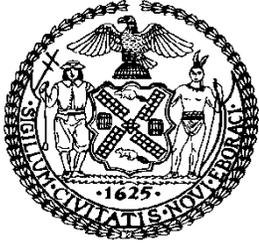
Proposed Int. No. 1269-A

This bill would require the Department of Housing & Buildings to enter into regulatory agreements with community land trusts (CLTs) which meet standard terms and conditions for regulatory agreements, and allows HPD to enter into such agreements where the CLT is a recipient of city funding, property or a tax exemption. The bill would take effect 120 days after it becomes law.

Proposed Int. No. 1419-A

This bill would allow the city to recover penalties of up to \$500,000 for companies and \$150,000 for individuals for a violation of the site safety provisions of the construction code, where the violation is accompanied by death or serious physical injury. In determining the amount of the civil penalty, the court must consider several factors, including the extent and severity of the injury, history of violations, degree of willfulness or negligence displayed by the defendant, and the defendant's financial resources. The bill would take effect 180 days after it becomes law.

The following is the text of the Fiscal Impact Statement for Int. No. 385-C:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 385-C

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to indoor asthma allergen hazards in residential dwellings and pest management, and to repeal section 27-2018 of the administrative code of the city of New York, relating to rodent and insect eradication and extermination

SPONSORS: Council Members Mendez, Torres, Johnson, Chin, Constantinides, Cumbo, Koo, Reynoso, Rodriguez, Rose, Levine, Koslowitz, Rosenthal, Richards, Palma, Lander, Levin, Menchaca, Lancman, Dromm, Barron, Kallos, Ferreras-Copeland, Crowley, King, Gibson, Cabrera, Mealy, Maisel, Miller, Cornegy, Eugene, Van Bramer, Salamanca, Gentile, Vacca, Espinal, Cohen, Williams, Garodnick, Greenfield, Treyger, Deutsch, Grodenchik, Perkins, Ulrich and the Public Advocate (Ms. James)

SUMMARY OF LEGISLATION: Proposed Intro. No. 385-C would set forth property owners’ responsibilities in relation to indoor allergen hazards. The bill would also establish classifications of violations for which the Department of Housing Preservation and Development (HPD) may issue violations for indoor allergen hazards and dates of correction for such violations. The bill would also require the Department of Health and Mental Hygiene (DOHMH) to report on activities to educate physicians and health care providers, who treat persons with asthma, about the role of indoor allergens in asthma exacerbation and suggest certain addresses for Departmental investigation for indoor allergen hazards. Additionally, the legislation would require DOHMH to take certain measures to educate persons about indoor allergen hazards.

EFFECTIVE DATE: This local law would take effect one year after its enactment, except that the Commissioners of Health and Mental Hygiene and Housing Preservation and Development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2020

FISCAL IMPACT STATEMENT:

	Effective FY19	FY Succeeding Effective FY20	Full Fiscal Impact FY20
Revenues	\$0	\$0	\$0
Expenditures	\$2,120,000	\$2,030,000	\$2,030,000
Net	(\$2,120,000)	(\$2,030,000)	(\$2,030,000)

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation. While the legislation authorizes HPD to impose fees and penalties for failure to correct a violation using integrated pest management of \$500 per day and up to \$10,000, and penalties of \$2,000 to \$10,000 for each violation for the false certification of correction of a violation, this estimate assumes residential property owners would fully comply with the provisions of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that the enactment of this legislation would result in additional inspections and administrative costs for HPD and DOHMH. While this estimate assumes that non-City entities would largely bear the costs of pest management and indoor allergen remediation, under the legislation, HPD

would be required to re-inspect new indoor allergen violations to verify the correction of hazardous and immediately hazardous violations. According to an analysis conducted by the New York City Independent Budget Office (IBO), the cost of additional inspections and administrative expenses that HPD would incur is estimated to be \$1.6 million annually. In addition, while the legislation authorizes HPD to take enforcement action where such violations have not been corrected, such action is not mandated. Although, IBO estimates that if HPD elects to make emergency repairs for immediately hazardous violations at the current rate of repairs, these additional repairs would cost about \$1.9 million annually.

In addition to costs borne by HPD, it is anticipated that DOHMH would incur \$520,000 in upfront costs and \$430,000 in annual costs thereafter related to the development of educational material explaining the hazards associated with indoor allergens and training curriculum for residential property owners and maintenance staff related to the removal of indoor allergens. Lastly, it is anticipated that the reporting, recommendations and other administrative requirements of this legislation would be implemented using existing resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Independent Budget Office
New York City Department of Housing Preservation and Development

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on June 11, 2014 as Intro. No. 385 and was referred to the Committee on Housing and Buildings (Committee). The bill was amended twice after introduction and a hearing on the amended legislation, Proposed Intro. No. 385-B, was held by the Committee on June 13, 2017 and the bill was laid over. The legislation was subsequently amended once more and the most recently amended legislation, Proposed Intro. No. 385-C, will be voted on by the Committee on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 385-C will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 15, 2017.

(For text of Int. No. 385-C, please see below; for text of the remaining bills and their Fiscal Impact Statements, please see the Reports of the Committee on Housing and Buildings for Int. Nos. 1009-A, 1015-A, 1036-A, 1039-A, 1120-A, 1269-A, and 1419-A respectively, printed in these Minutes)

Accordingly, this Committee recommends the adoption of Int. Nos. 385-C, 1009-A, 1015-A, 1036-A, 1039-A, 1120-A, 1269-A, and 1419-A.

(The following is the text of Int. No. 385-C:)

Int. No. 385-C

Council Members Mendez, Torres, Johnson, Chin, Constantinides, Cumbo, Koo, Reynoso, Rodriguez, Rose, Levine, Koslowitz, Rosenthal, Richards, Palma, Lander, Levin, Menchaca, Lancman, Dromm, Barron, Kallos, Ferreras-Copeland, Crowley, King, Gibson, Cabrera, Mealy, Maisel, Miller, Cornegy, Eugene,

Van Bramer, Salamanca, Gentile, Vacca, Espinal, Cohen, Williams, Garodnick, Greenfield, Treyger, Deutsch, Grodenchik, Perkins, Vallone and the Public Advocate (Ms. James).

A Local Law to amend the administrative code of the city of New York, in relation to indoor asthma allergen hazards in residential dwellings and pest management, and to repeal section 27-2018 of the administrative code of the city of New York, relating to rodent and insect eradication and extermination

Be it enacted by the Council as follows:

Section 1. Section 27-2018 of the administrative code of the city of New York is REPEALED.

§ 2. The title of article 4 of subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York is amended to read as follows:

*ARTICLE 4
CONTROL OF PESTS AND OTHER ASTHMA ALLERGEN TRIGGERS*

§27-2017 Definitions.

§27-2017.1 Owners' responsibility to remediate.

§27-2017.2 Owners' responsibility to notify occupants and to investigate.

§27-2017.3 Violation for visible mold.

§27-2017.4 Violation for pests.

§27-2017.5 Removal of asthma triggers in a dwelling unit upon turnover.

§27-2017.6 Department inspections.

§27-2017.7 Department implementation and enforcement.

§27-2017.8 Integrated pest management practices

§27-2017.9 Work practices.

§27-2017.10 Department removal of violations placed by the department of health and mental hygiene.

§27-2017.11 Reporting.

§27-2017.12 Waiver of benefit void.

§ 27-2018.1 Notice of bedbug infestation history

§ 27-2018.2 Reporting of bedbug infestations

§ 27-2019 Elimination of harborages

§ 3. Section 27-2017 of subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York is amended to read as follows:

§27–2017 Definitions. When used in this article:

[(a) Eradication means the elimination of rodents or insects and other pests from any premises through the use of traps, poisons, fumigation or any other method of extermination.

(b) Insects and other pests include the members of class insecta, including houseflies, lice, bees, cockroaches, moths, silverfish, beetles, bedbugs, ants, termites, hornets, mosquitoes and wasps, and such members of the phylum arthropoda as spiders, mites, ticks, centipedes and wood lice.]

Common area. The term “common area” means a portion of a multiple dwelling that is not within a dwelling unit and that is regularly used by occupants for access to and egress from any dwelling unit within such multiple dwelling, as well as commonly used areas such as a laundry room.

[(c)] *Harborage. The term “harborage” [Harborage] means any condition which provides shelter or protection for [rodents or insects and other] pests.*

Indoor allergen hazard. The term “indoor allergen hazard” means any indoor infestation of cockroaches, mice, or rats or conditions conducive to such infestation, or an indoor mold hazard.

Indoor mold hazard. The term “indoor mold hazard” means any condition of mold growth on an indoor surface, building structure or ventilation system, including mold that is within wall cavities, that is likely to cause harm to a person or that has been cited as a violation by the department.

Integrated pest management. The term “integrated pest management” means ongoing prevention, monitoring and pest control activities and reasonable efforts to eliminate pests from any building, lot, or dwelling. This includes, but is not limited to, reasonable efforts to eliminate of harborages and conditions conducive to pests, the use of traps, and, when necessary, the use of pesticides.

Pest. The term “pest” means any unwanted member of the Class Insecta, including, but not limited to houseflies, lice, bees, cockroaches, moths, silverfish, beetles, bedbugs, ants, termites, hornets, mosquitoes and wasps, and such members of the Phylum Arthropoda as spiders, mites, ticks, centipedes and wood lice, or of the Order Rodentia, including but not limited to mice, Norway rats, and any other unwanted plant, animal or fungal life that is a pest because it is destructive, annoying or a nuisance.

Remediation or remediate. The term “remediation” or “remediate” means reasonable efforts to eradicate pests in accordance with section 27-2017.8 and reasonable efforts to eradicate indoor mold hazards in accordance with rules promulgated pursuant to section 27-2017.9.

Underlying defect. The term “underlying defect” means a condition that causes an indoor mold hazard, such as a water leak or water infiltration from plumbing or defective masonry pointing or other moisture condition, or causes an infestation of pests, including holes or entryway paths for pests.

Visible mold. The term “visible mold” means mold that is readily identifiable by visual inspection, including mold that is behind furniture or other interior obstructions.

§ 4. Subchapter 2 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding new sections 27-2017.1 through 27-2017.12 to read as follows:

§27-2017.1 *Owners' responsibility to remediate.* The existence of an indoor allergen hazard in any dwelling unit in a multiple dwelling is hereby declared to constitute a condition dangerous to health. An owner of a dwelling shall take reasonable measures to keep the premises free from pests and other indoor allergen hazards and from any condition conducive to indoor allergen hazards, and shall take reasonable measures to prevent the reasonably foreseeable occurrence of such a conditions and shall expeditiously take reasonable measures to remediate such conditions and any underlying defect, when such underlying defect exists, consistent with section 27-2017.8 and the rules promulgated pursuant to section 27-2017.9.

§27-2017.2 *Owners' responsibility to notify occupants and to investigate.* a. The owner of a multiple dwelling shall cause an investigation to be made for indoor allergen hazards in all occupied dwelling units and in common areas as set forth on subdivision b of this section.

b. Investigations shall be undertaken at least once a year and more often if necessary, such as when, in the exercise of reasonable care, an owner knows or should have known of a condition that is reasonably foreseeable to cause an indoor allergen hazard, or an occupant makes a complaint concerning a condition that is likely to cause an indoor allergen hazard or requests an inspection, or the department issues a notice of violation or orders the correction of a violation that is likely to cause an indoor allergen hazard.

c. All leases offered to tenants or prospective tenants in such multiple dwellings shall contain a notice, conspicuously set forth therein, which advises tenants of the obligations of the owner and tenant as set forth in this section. Such notice shall be approved by the department, and shall be in English and in the covered languages set forth in section 8-1002. The owner of such multiple dwelling shall provide the tenant or prospective tenant of such dwelling unit with the pamphlet developed by the department of health and mental hygiene pursuant to section 17-199.7. Such pamphlet shall be made available in English and in the covered languages set forth in section 8-1002.

§27- 2017.3. *Violation for visible mold* a. The presence of visible mold in any room in a dwelling unit in a multiple dwelling shall constitute an indoor mold hazard violation as provided in this section, except when such mold is present on tile or grout:

1. The presence of visible mold in an amount measuring in total less than ten square feet in a room within a dwelling unit shall constitute a non-hazardous violation.

2. The presence of visible mold in an amount measuring in total between ten square feet and thirty square feet in a room within a dwelling unit shall constitute a hazardous violation.

3. In addition, the presence of visible mold as provided in subparagraphs (a) or (b) of this paragraph shall constitute a hazardous violation if:

(a) there is an existing non-hazardous violation of paragraph one of this subdivision for which the certification period has expired and the non-hazardous violation has not been certified as corrected within the

certification time period, and the mold condition that was the cause of the non-hazardous violation continues to be present in the same room in the dwelling unit; or

(b) The owner has submitted a false certification of correction of a non-hazardous violation issued pursuant to paragraph one of this subdivision and the mold condition that was the cause of such non-hazardous violation continues to be present in the same room in the dwelling unit.

4. The presence of visible mold in an amount measuring in total greater than or equal to thirty square feet in a room within a dwelling unit, shall constitute an immediately hazardous violation.

5. In addition, the presence of visible mold as provided in subparagraphs (a) or (b) of this paragraph shall constitute an immediately hazardous violation if:

(a) There is an existing hazardous violation pursuant to paragraph two of this subdivision for which the certification period has expired and such hazardous violation has not been certified as corrected within the certification time period, and the department has reinspected the unit within seventy days of the certification date of such hazardous violation and has found that the mold condition that was the cause of such hazardous violation continues to be present in the same room in the dwelling unit; or

(b) The owner has submitted a false certification of correction of a hazardous violation issued pursuant to paragraph two of this subdivision and the mold condition that was the cause of such hazardous violation continues to be present in the same room in the dwelling unit.

b. The presence of visible mold in an amount measuring greater than or equal to thirty square feet in any one room or any one level of a hallway of a common area or fifty square feet in the aggregate shall constitute a hazardous violation. The presence of visible mold in an amount measuring less than thirty square feet in any one room or any one level of a hallway of a common area or fifty square feet in the aggregate shall constitute a non-hazardous violation.

c. 1. The date for correction of a non-hazardous or hazardous violation pursuant to subdivisions a or b of this section shall be as set forth in subdivision c of section 27-2115.

2. The date for correction of an immediately hazardous violation pursuant to subdivision a of this section shall be twenty-one days after service of the notice of violation as provided on such notice.

3. The department may postpone the date by which an immediately hazardous violation issued pursuant to subdivision a of this section shall be corrected upon a showing, made within the time set for correction in the notice, that prompt action to correct the violation has been taken but that full correction cannot be completed within the time provided because of serious technical difficulties, inability to obtain necessary materials, funds or labor, inability to gain access to the dwelling unit wherein the violation exists, or such other portion of the building as may be necessary to make the required repair, provided, however, that where such immediately hazardous violation has been issued as a result of a reinspection of a hazardous violation that remained uncorrected, no postponement shall be granted. Such postponement shall not exceed fourteen days from the date of correction set forth in the notice of violation. The department may require such other conditions as are deemed necessary to correct the violation within the time set for the postponement.

§27- 2017.4. Violation for pests a. When the department makes the determination that any premises are infested by pests other than cockroaches, mice, or rats, it may order such eradication measures and work practices as the department deems necessary. Such violation shall be a hazardous violation pursuant to section 27-2115.

b. Notwithstanding the provisions of subdivision a of this section, the presence of cockroaches, mice or rats in any room in a dwelling unit in a multiple dwelling or a common area shall constitute an immediately hazardous violation of this code as provided in this section and an owner shall comply with the work practices set out in subdivision a of section 27-2017.8 when correcting a such violation.

c. The date for correction of an immediately hazardous violation for cockroaches, mice, or rats shall be twenty-one days after service of the notice of violation as provided on such notice.

d. The department may postpone the date by which an immediately hazardous violation for cockroaches, mice, or rats shall be corrected upon a showing, made within the time set for correction in the notice, that prompt action to correct the violation has been taken but that full correction cannot be completed within the time provided because of serious technical difficulties, inability to obtain necessary materials, funds or labor, inability to gain access to the dwelling unit wherein the violation exists, or such other portion of the building as may be necessary to make the required repair. Such postponement shall not exceed fourteen days from the

date of correction set forth in the notice of violation. The department may require such other conditions as are deemed necessary to correct the violation within the time set for the postponement.

§27-2017.5 Removal of asthma triggers in a dwelling unit upon turnover. a. Prior to the reoccupancy of any vacant dwelling unit in a multiple dwelling, the owner shall, within such dwelling unit, remediate all visible mold and pest infestations, and any underlying defects in such dwelling unit, and thoroughly clean and vacuum all carpeting and furniture provided by such owner to incoming occupants, consistent with the work practices set out in subdivision a of section 27-2017.8 and the rules promulgated pursuant to section 27-2017.9.

b. The owner shall certify in writing to the incoming tenant or occupant of a unit of a multiple dwelling, in such form as may be promulgated by the department, that the unit is in compliance with subdivision a of this section.

§27-2017.6 Department inspections. a. When entering a dwelling unit in a multiple dwelling for the purpose of investigating the existence of any violation of the code, the department shall make diligent efforts to ascertain whether there are cockroaches, mice, rats, or visible mold in the dwelling unit and shall inquire of the occupant whether cockroaches, mice, rats or mold are present in the dwelling unit. When performing such inspection, the department need only inspect those portions of the dwelling unit where furniture or other furnishings do not obstruct the view of a surface, except when there is visible evidence that causes the department to believe that the obstructed surface has visible mold or cockroaches, mice, or rats.

b. In any dwelling unit in a multiple dwelling the department shall conduct an inspection pursuant to subdivision a of this section no later than thirty days after the department's receipt of a complaint describing a condition that would constitute a violation under subdivision a of section 27-2017.3 or subdivision b of section 27-2017.4. Where the department attempts to perform an inspection of a dwelling unit within the time period required by this subdivision but is unable to gain access, the department shall provide written notice to the occupant of such dwelling unit that no further attempts at access shall be made unless a new complaint is submitted.

c. Where, upon conducting an inspection, the department determines the existence of a condition constituting a violation of this article, the department shall serve a notice of violation within ten additional days of such inspection.

d. The pamphlet developed by the department of health and mental hygiene pursuant to section 17-199.7 shall be left at the premises of the dwelling unit at the time of an inspection made by the department pursuant to this section. Such pamphlet shall be delivered by the department in conjunction with all notices of violation issued pursuant to paragraph one of subdivision o of section 27-2115. Failure to include such pamphlet with such notices of violation shall not render null and void the service of such notices of violation. Such pamphlet shall also be made available to any member of the public upon request.

e. During the period from October first through May thirty-first, or in the event of disaster, the time for the department to conduct an inspection as provided in subdivision b of this section may be extended if the department resources so require. Notwithstanding any other provision of law, failure by the department or the department of health and mental hygiene to comply with any time period provided in this article or section 27-2115 relating to responsibilities of the department and the department of health and mental hygiene, shall not render null and void any notice of violation issued by the department or the department of health and mental hygiene pursuant to such article or section, and shall not provide a basis for defense or mitigation of an owner's liability for civil penalties for violation of such article.

§27-2017.7 Department implementation and enforcement. a. The department shall provide appropriate training for indoor allergen inspection and for supervisory personnel. The department shall provide for the continuing education of inspection and supervisory personnel regarding changes in applicable federal, state, and local laws and guidance documents and require that each such individual has successfully demonstrated knowledge of those materials and the requirements of this article.

b. The department, with the approval of the department of health and mental hygiene, shall promulgate a comprehensive written procedure to guide department personnel in implementing and enforcing this article. Such procedures shall include a methodology and a form to be used by department personnel when conducting an inspection to carry out and record an inspection pursuant to section 27-2017.6.

c. The department shall promulgate rules for the implementation and enforcement of this article and to effect compliance with all applicable provisions of this article, rules promulgated thereunder, and all

applicable city, state or federal laws, rules or regulations. Such rules shall be subject to the approval of the department of health and mental hygiene prior to their promulgation and shall include, but need not be limited to, establishing:

1. *Procedures by which an owner may apply to the department to postpone the date by which a violation shall be corrected pursuant to section 27-2017.3 or 27-2017.4; and*
2. *Procedures to implement and to enforce compliance with paragraph 2 of subdivision o of section 27-2115, which shall include, but not be limited to, the requirement that an owner certify to:*
 - (a) *the correction of a violation of this article,*
 - (b) *compliance with section 27-2017.8; and*
 - (c) *compliance with the rules promulgated by the department pursuant to section 27-2017.9.*

§27- 2017.8 Integrated pest management practices. a. When any premises are subject to infestation by pests, or subject to a violation of subdivision a of section 27-2017.4 where directed by the department, or subject to a violation of subdivision b of section 27-2017.4, the owner shall use integrated pest management measures and eliminate conditions conducive to pests, and comply with following work practices:

1. *inspect for, and physically remove pest nests, waste, and other debris by High-Efficiency Particulate Air (HEPA) vacuuming, washing surfaces, or otherwise collecting and discarding such debris;*
2. *eliminate points of entry and passage for pests by repairing and sealing any holes, gaps or cracks in walls, ceilings, floors, molding, base boards, around pipes and conduits, or around and within cabinets by using sealants, plaster, cement, wood, escutcheon plates, or other durable material. Attach door sweeps to any door leading to a hallway, basement, or outside the building to reduce gaps to no more than one-quarter inch; and*
3. *eliminate sources of water for pests by repairing drains, faucets, and other plumbing materials that accumulate water or leak. Remove and replace saturated materials in interior walls.*
4. *The use of pesticides shall not substitute for pest management measures described in this section. Any pesticide applied shall be applied by a pest professional licensed by New York state department of environmental conservation (DEC).*

b. An owner's certification of correction of a pest violation that was issued pursuant to subdivision a of section 27-2017.4 shall, where applicable, include an affidavit affirming that the work practices required pursuant to subdivision a of this section were properly performed. An owner's certification of correction of a pest violation that was issued pursuant to subdivision b of section 27-2017.4 shall include an affidavit affirming that the work practices required pursuant to subdivision a of this section were properly performed. The department may also by rule require additional documentation for certification of correction of a pest violation or a violation of subdivision b of 27-2017.4.

§27-2017.9. Work practices. a. The department shall promulgate rules, with the approval of the department of health and mental hygiene, establishing work practices when assessing and correcting indoor mold hazards, and underlying defects including violations cited by the department pursuant to this article. The department shall from time-to-time review and revise such rules based upon, among other things, the latest scientific data and developing federal, state, and local laws and industry standards.

b. The work practices promulgated pursuant to subdivision a of this section shall include the requirement that when correcting an indoor mold hazard violation issued pursuant to this article, or when assessing and correcting an indoor mold hazard identified as a result of an inspection by an owner, such owner shall comply with the following work practices:

1. *investigate and correct any underlying defect, including moisture or leak conditions, that are causing or may cause mold violations;*
2. *remove or securely cover with plastic sheeting any furniture or other items in the work area that cannot be removed;*
3. *minimize the dispersion of dust and debris from the work area to other parts of the dwelling unit through methods such as: sealing ventilation ducts/grills and other openings in the work area with plastic sheeting; isolating the work area with plastic sheeting and covering egress pathways; cleaning or gently misting surfaces with a dilute soap or detergent solution prior to removal; the use of HEPA vacuum-shrouded tools or a vacuum equipped with a HEPA filter at the point of dust generation;*
4. *clean mold with soap or detergent and water;*
5. *remove and discard materials that cannot be cleaned properly;*

6. properly remove and discard plastic sheeting, cleaning implements, and contaminated materials in sealed, heavy weight plastic bags;
7. clean any remaining visible dust from the work area using wet cleaning methods or HEPA vacuuming; and
8. leave the work area dry and visibly free from mold, dust, and debris.

The work practices shall also include a requirement that when correcting an indoor mold hazard violation issued pursuant to this article, or when assessing or correcting an indoor mold hazard identified as a result of an inspection by an owner, such assessments or work shall be performed in compliance with article 32 of New York state labor law and any rules promulgated thereunder, where applicable.

c. An owner's certification of correction of an indoor mold hazard violation issued pursuant to this article shall include an affidavit affirming that the work practices required pursuant to this section were properly performed. The department may also by rule require additional documentation for certification of correction of an indoor mold hazard violation.

§27-2017.10 [Department removal of] Violations placed by the department of health and mental hygiene. Where the owner of the dwelling or relevant dwelling unit within such dwelling fails to comply with an order of the department of health and mental hygiene to correct a violation placed by the department of health and mental hygiene pursuant to section 17-199.6, the department of health and mental hygiene shall certify such conditions to the department of housing preservation and development within ten days after the date set for correction in said order. The department of housing preservation and development may take such enforcement action as it deems necessary, including performing or arranging for the performance of work to correct the certified condition.

§27-2017.11 Reporting. a. Within four months after the close of the first fiscal year that begins after the effective date of the local law that added this section, and within four months after the close of each fiscal year thereafter, the commissioner shall provide to the council a written report on the department's implementation of this article during the preceding fiscal year. Such report shall include, at a minimum, an analysis of the department's program, a detailed statement of revenue and expenditures and a statistical section designed to provide a detailed explanation of the department's enforcement including, but not limited to, the following:

1. The number of complaints for visible mold, indoor mold hazards, and pests in dwelling units, disaggregated by city or non-city ownership of the building which is the subject of the complaint;
2. The number of inspections by the department pursuant to this article, disaggregated by the city or non-city ownership of the building where the inspection occurred;
3. The number of violations issued by the department pursuant to this article;
4. The number of violations issued pursuant to this article that were certified as corrected by the owner, the number of such certifications that did not result in the removal of such violations, and the number of civil actions brought by the department against such owners;
5. The number of jobs performed in which violations issued pursuant to this article were corrected by the department, the total amount spent by the department to correct the conditions that resulted in the violations, and the average amount spent per dwelling unit to correct such conditions;
6. A statistical profile with geographic indexing, such as by community district, council district, and/or zip code, of multiple dwellings in which violations are placed, indicating the ages and general condition of the multiple dwellings and other factors relevant to the prevalence of indoor mold hazards and pests, which may include asthma rates in the relevant community, outstanding violations, and emergency repair charges; and.
7. The number of trainings conducted for owners and building maintenance personnel on the appropriate work methods for controlling and removing indoor allergen hazards in rental housing.

b. The department of health and mental hygiene shall annually prepare and publically post on the Environmental and Health Data Portal a statistical profile on asthma rates in the population, including asthma-related hospitalizations and asthma-related emergency department visits, city wide and by neighborhoods, based on the most recently available data. These data shall be utilized by the department to target intervention efforts to reduce the prevalence of asthma allergens.

§27-2017.12 Waiver of benefit void. a. No owner may seek to have an occupant of a dwelling unit waive the benefit or protection of any provision of this article. Any agreement by the occupant of a dwelling unit purporting to waive the benefit or protection of any provision of this article is void. Any owner who violates this section, or the rules promulgated hereunder, shall be guilty of a misdemeanor punishable by a fine of up

to five hundred dollars or imprisonment for up to six months or both. In addition, any owner who violates this section shall be liable for a civil penalty of not more than five hundred dollars per violation.

b. Notwithstanding any other provision of this article, nothing herein shall be construed to alter existing or future agreements which allocate responsibility for compliance with the provisions of this article between a tenant shareholder and a cooperative corporation or between the owner of a condominium unit and the board of managers of such condominium.

c. The provisions of this article, other than section 27-2017.10, shall not apply to a dwelling unit in a multiple dwelling where (i) title to such multiple dwelling is held by a cooperative housing corporation or such dwelling unit is owned as a condominium unit, and (ii) such dwelling unit is occupied by the shareholder of record on the proprietary lease for such dwelling unit or the owner of record of such condominium unit, as is applicable, or the shareholder's or record owner's family.

d. The provisions of this article shall not apply to dwelling units owned and operated by the New York city housing authority.

§5. Section 27-2115 of the administrative code of the city of New York is amended by adding a new subdivision o to read as follows:

(o) (1) Notwithstanding any other provision of law, when the department serves a notice of violation to correct and certify a condition that constitutes a violation of article four of subchapter two of this chapter, the notice of violation shall specify the date by which the violation shall be corrected as provided in such article, and the procedure by which the owner, for good cause shown pursuant to this subdivision, may request a postponement. The notice of violation shall further specify that the violation shall be corrected in accordance with section 27-2017.8 and the rules established pursuant to section 27-2017.9, where applicable. The notice of violation shall be served by personal delivery to a person in charge of the premises or to the person last registered with the department as the owner or agent, or by registered or certified mail, return receipt requested, or by certified mail with proof of delivery, to the person in charge of the premises or to the person last registered with the department as the owner or agent; provided that where a managing agent has registered with the department, such notice of violation shall be served on the managing agent. Service of the notice of violation shall be deemed completed five days from the date of mailing. Notification, in a form to be determined by the department, of the issuance of such violation shall be sent simultaneously by regular mail to the occupant at the dwelling unit that is the subject of such notice of violation.

(2) Notwithstanding any other provision of law, the notice of violation shall direct that the correction of each violation cited therein shall be certified to the department. Such certification shall be made in writing or electronically, under oath by the registered owner, a registered officer or director of a corporate owner or by the registered managing agent. Such certification shall include a statement that the violation was corrected in compliance with section 27-2017.8, where applicable, and the rules established pursuant to section 27-2017.9, where applicable. All certifications shall be delivered to the department and acknowledgment of receipt therefore obtained or shall be mailed to the department by certified or registered mail, return receipt requested, no later than five days after the date set for correction, or submitted electronically within five days after the date set for correction, and shall include the date when each violation was corrected. Such certification of correction shall be supported by a sworn statement saying that the violation was properly corrected by the person who performed the work if performed by an employee or agent of the owner. Notification of such certification shall be mailed to the complainant by the department not more than twelve full calendar days from the date of receipt of such certification by the department. Failure to file such certification shall establish a prima facie case that such violation has not been corrected.

(3) Whenever the department shall issue a notice of violation to correct a condition that constitutes a hazardous or immediately hazardous violation of subdivision a of section 27-2017.3 the department shall conduct a final inspection to verify that the violation has been corrected. Where the department determines that the violation has not been corrected, the department may take such enforcement action as is necessary, including performing or arranging for the performance of the work to correct the violation.

(4) Notwithstanding any other provision of law, a person making a false certification of correction of a violation issued pursuant to article four of subchapter two of this chapter, in addition to any other civil penalty, shall be subject to a civil penalty of not less than two thousand dollars nor more than ten thousand dollars for each false certification made, recoverable by the department in a civil action brought in a court of

competent jurisdiction. If the person making such false certification is an employee of the owner then such owner shall be responsible for such civil penalty. In addition, any such person making a false certification of correction shall be guilty of a misdemeanor punishable by a fine of up to one thousand dollars or imprisonment for up to one year or both.

(5) Notwithstanding any other provision of law, and in addition to any penalties applicable under article three of subchapter five of this chapter, a person who violates article four of subchapter two of this chapter by failing to correct such violation in accordance with the work practices in section 27-2017.8 and in the rules established pursuant to section 27-2017.9 shall be subject to a civil penalty of five hundred dollars per day for each violation to a maximum of ten thousand dollars from the initial date set for correction in the notice of violation until the date the violation is corrected and certified to the department. There shall be a presumption that the condition constituting a violation continues after the service of the notice of violation. The owner shall be responsible for the correction of all violations noticed pursuant to article four of subchapter two of this chapter, but in an action for civil penalties pursuant to this subdivision may in defense or mitigation of such owner's liability for civil penalties show:

- (i) That the condition which constitutes the violation did not exist at the time the violation was placed; or
- (ii) That he or she began to correct the condition which constitutes the violation promptly upon discovering it but that full correction could not be completed expeditiously because of serious technical difficulties, inability to obtain necessary materials, funds or labor;
- (iii) That he or she was unable to gain access to the dwelling unit wherein the violation exists, or such other portion of the building as might be necessary to make the repair, provided that a postponement was granted pursuant to this subdivision; or
- (iv) That he or she was unable to obtain a permit or license necessary to correct the violation, provided that diligent and prompt application was made therefore; or
- (v) That the violation giving rise to the action was caused by the act of negligence, neglect or abuse of another not in the employ or subject to the direction of the owner, except that the owner shall be precluded from showing in defense or mitigation of such owner's liability for civil penalties evidence of any acts occurring, undertaken, or performed by any predecessor in title prior to the owner taking control of the premises. Where the aforesaid allegations are made by way of mitigation of penalties, the owner shall show, by competent proof, pertinent financial data and efforts made to obtain necessary materials, funds or labor or to gain access, or to obtain a permit or license and such other evidence as the court may require. If the court finds that sufficient mitigating circumstances exist, it may remit all or part of any penalties arising from the violations, but may condition such remission upon a correction of the violation within a time period fixed by the court.

(6) Notwithstanding any other provision of law, failure by the department to comply with any time period provided in this section relating to responsibilities of the department shall not render null and void any notice of violation issued by the department or the department of health and mental hygiene pursuant to such article or section, and shall not provide a basis for defense or mitigation of an owner's liability for civil penalties for violation of such article

§6. Chapter 1 of title 17 of the administrative code of the city of New York is amended by adding new sections 17-199.5, 17-199.6, 17-199.7 and 17-199.8 to read as follows:

§17-199.5 Encouragement of physician referrals for indoor allergen hazards. a. The department shall report to the council no later than 18 months from the effective date on activities it has undertaken to educate physicians and other health care providers who treat persons with asthma about the role of indoor allergens in asthma exacerbation and the availability of inspections for asthma triggers in their patients' primary residence by the department and the department of housing preservation and development, and on any mechanism they have to refer to the department or the department of housing preservation and development, with consent, the contact information for patients who report these conditions in their primary residence. The report shall describe what was done following such referrals, and what the outcomes were of any that were made and received during this period.

§17-199.6 Investigations of indoor allergen hazards in dwellings of persons with medically diagnosed moderate persistent or severe persistent asthma. a. The department shall establish procedures to permit doctors, nurses, or other health professionals, upon the consent of their patients, to request a department

investigation of possible indoor allergen hazards in dwellings where persons reside who have been medically diagnosed with moderate persistent or severe persistent asthma. Such procedures shall provide for the referral to the department of housing preservation and development of such requests that would be subject to section 27-2017.6. The procedures shall also provide for an investigation to be made when the department is notified that a person who has been medically diagnosed with moderate persistent or severe persistent asthma is residing in a dwelling with possible indoor allergen hazards not otherwise subject to enforcement by the department of housing preservation and development under section 27-2017.6. Such indoor allergen hazards include, but are not limited to, mold that is not readily observable to the eye, including mold that is hidden within wall cavities, construction dust or such other conditions as the department shall from time-to-time determine by rule are indoor allergen hazards.

b. In the event that the department determines that an indoor allergen hazard exists, the department shall order the owner to correct the condition and the underlying causes of such a condition within twenty-one days, in a manner and under such safety conditions as it may specify, including the integrated pest management practices in section 27-2017.8 and the work practices established pursuant to section 27-2017.9.

c. In the event that the department determines that the owner or other person having the duty or liability to comply with an order issued pursuant to this section fails to substantially comply therewith within twenty-one days after service thereof, the department shall, in accordance with section 27-2017.10, refer such order to the department of housing preservation and development. The department of housing preservation and development shall take such enforcement action as is necessary, including performing or arranging for the performance of the work to correct the certified condition.

d. The department shall report to the council and mayor no later than 24 months from the effective date on activities it has undertaken under this section as they relate to adults with asthma diagnoses, including but not limited to the number adult asthma referrals by type to the department for inspection, the number and types of orders issued to property owners by the department as a result of adult asthma referrals, and the number of apartments that have completed remediation for indoor asthma allergens as a result of adult asthma referrals. Upon submission of such report the agency may submit a recommendation to the council containing a proposed redefinition of "persons with medically diagnosed moderate persistent or severe persistent asthma" for the purposes of the provision of this article.

§17-199.7 Education about indoor allergen hazards. The department shall develop a pamphlet which shall be in English and in the covered languages set forth in section 8-1002, explaining the hazards associated with indoor allergens and describing tenant rights and owner responsibilities under this law, including safe work practices and mechanisms through which the public may report indoor allergen hazards in the home. Such pamphlet shall be made available in accordance with section 27-2017.6. Such pamphlet shall also be made available to any member of the public upon request. The department shall also develop a training curriculum for educating owners and building maintenance personnel on the appropriate work methods for controlling and removing indoor allergen hazards in rental housing, including integrated pest management. Such training curriculum shall also be made available to any member of the public upon request.

§17-199.8 Inspection by the department of unsafe work practices for indoor allergen remediation. The department shall respond to complaints of unsafe work practices related to the correction of indoor mold hazard violations that result in chemical vapors, dust, or other environmental hazards, and promptly refer complaints of unsafe pest control to the New York state department of environmental conservation.

§7. This local law shall take effect one year after its enactment, except that the commissioners of health and mental hygiene and housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, RITCHIE J. TORRES, BARRY S. GRODENCHIK; *Committee on Housing and Buildings*, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 1009-A

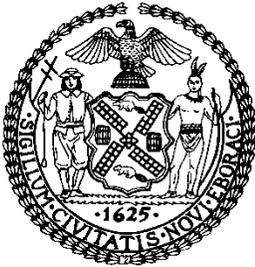
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to an online portfolio report of registered property owners.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on November 24, 2015 (Minutes, page 4144), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 385-C printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1009-A:



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

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1009-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to an online portfolio report of registered property owners

SPONSORS: The Public Advocate (Ms. James) and Council Members Chin, Kallos Rodriguez, Rosenthal and Menchaca

SUMMARY OF LEGISLATION: Proposed Intro. No. 1009-A would require the Department of Housing Preservation and Development (HPD) to maintain a publicly available database that reports portfolio information by property owner, including the address of each registered property, the current number of outstanding violations for each property, the current number of harassment findings, and the number and types of departmental orders pending on each property. HPD may provide the aggregate data used to create the database to the Public Advocate upon request.

EFFECTIVE DATE: This local law would take effect 270 days after it becomes law, except that the Commissioner of HPD may take such measures as are necessary for its implementation, including the promulgation of rules, before its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2020

FISCAL IMPACT STATEMENT:

	Effective FY19	FY Succeeding Effective FY20	Full Fiscal Impact FY20
Revenues	\$0	\$0	\$0
Expenditures	De minimus	De minimus	De minimus
Net	De minimus	De minimus	De minimus

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

IMPACT ON EXPENDITURES: It is anticipated that there would be minimal to no impact on expenditures resulting from the enactment of this legislation. Any expenditures would be related to technology costs associated with implementing software changes needed to post property owner information online.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Department of Housing Preservation and Development

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Financial Analyst

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on November 24, 2015 as Intro. No. 1009 and was referred to the Committee on Housing and Buildings (Committee). A joint hearing was held by the Committee with the Committee on Finance on November 22, 2016, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1009-A, will be considered by the Committee on December 18, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 14, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1009-A:)

Int. No. 1009-A

By the Public Advocate (Ms. James) and Council Members Chin, Kallos Rodriguez, Rosenthal and Menchaca.

A Local Law to amend the administrative code of the city of New York, in relation to an online portfolio report of registered property owners

Be it enacted by the Council as follows:

Section 1. Article 2 of subchapter 4 of chapter 2 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-2109.2 to read as follows:

§ 27-2109.2 *Online portfolio report of registered property owners. The department shall maintain through the department's website a publicly accessible electronic interface that reports portfolio information based on the name of a property owner. The report shall be based on the last valid information registered with the department pursuant to section 27-2097. Such report shall include (i) the address of each registered property owned by such registered owner; (ii) the current number of outstanding violations issued by the department, disaggregated by class, for each property; (iii) the number of findings of harassment currently on record with the department; and (iv) the number and types of departmental orders pending on each property. The department may provide the aggregate data used to create such website to the public advocate upon request in a form that permits automated processing and downloading.*

§ 2. This local law takes effect 270 days after it becomes law, except that the commissioner of housing preservation and development may take such measures as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, RITCHIE J. TORRES, BARRY S. GRODENCHIK, ERIC A. ULRICH; Committee on Housing and Buildings, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 1015-A

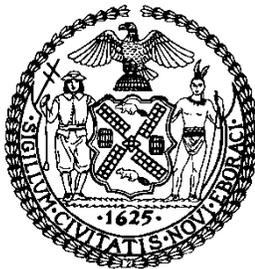
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to establishing a housing portal.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on December 7, 2015 (Minutes, page 4299), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 385-C printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1015-A:



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

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1015-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to establishing a housing portal

SPONSORS: Council Members Kallos, Williams, Mendez, Rose, Rodriguez, Rosenthal and Miller (by request of the Manhattan Borough President)

SUMMARY OF LEGISLATION: Proposed Intro. No. 1015-A would require the Department of Housing Preservation and Development (HPD) to create a centralized website and application system for affordable housing units by July 1, 2020. The housing portal would allow users to be able to apply for occupancy of such units, track the progress of the applications submitted, and receive notifications that available housing units match specified criteria. Verified occupants of apartments would be able to view additional information about those units, including the maximum lawful rent, actual rent being charged, and if the unit is available for rent or sale as part of a cooperative corporation, a description of applicable fees and services, monthly rent, proposed sale price, annual property tax payments and other details that are provided by the owner. The portal would also be accessible to residential property owners to offer units for rent or sale and to offer shares of a cooperative corporation for sale. The website would also refer individuals with income below 80 percent of the area median income to the New York City Housing Authority.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$1,225,000	\$1,225,000	\$1,225,000
Net	(\$1,225,000)	(\$1,225,000)	(\$1,225,000)

IMPACT ON REVENUES: It is estimated that there would be no impact on revenues resulting from the enactment of this legislation. While HPD is authorized to impose penalties to property owners that fail to provide information with respect to a covered dwelling unit, this estimate assumes residential property owners would fully comply with the provisions of this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be an impact of about \$3 million annually on expenditures resulting from the enactment of this legislation. HPD estimates the technology costs to create and maintain a centralized listing and application system would total \$3 million per year, including other than personal service costs related to data systems and subscriptions. However, the 2018-2021 Adopted Capital Commitment Plan for HPD assumes \$7.1 million for technology costs and functionality enhancements for Housing Connect 2.0, which this bill would expand upon. As such, this estimate assumes the net cost to HPD to create a housing portal pursuant to the legislation would be \$1.23 million annually.

Lastly, it is anticipated that the written notices and other administrative requirements of this legislation would be implemented using existing resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Department of Housing Preservation and Development

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Financial Analyst

ESTIMATE REVIEWED BY: Chima Obichere, Unit Head
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on December 7, 2015 as Intro. No. 1015 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on February 22, 2016, and the bill was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No.1015-A, will be considered by the Committee on December 18, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 15, 2017.

Accordingly, this Committee recommends its adoption, as adopted.

(The following is the text of Int. No. 1015-A:)

Int. No. 1015-A

By Council Members Kallos, Williams, Mendez, Rose, Rodriguez, Rosenthal, Miller and Menchaca (by request of the Manhattan Borough President).

A Local Law to amend the administrative code of the city of New York, in relation to establishing a housing portal

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 18 to read as follows:

**CHAPTER 18
HOUSING PORTAL**

§ 26-1801 Definitions.

§ 26-1802 Housing portal.

§ 26-1803 Violations.

§ 26-1801 Definitions. As used in this chapter:

Affordable unit. The term “affordable unit” means a dwelling unit for which occupancy or initial occupancy is required to be restricted based on the income of the occupant or prospective occupant thereof as a condition of (i) a loan, grant, tax exemption or conveyance of property from the department pursuant to the private housing finance law, other than article viii-b of such law, or the general municipal law, (ii) a tax exemption pursuant to section 420-c, 421-a or 489 of the real property tax law or (iii) generating a floor area bonus for the provision of affordable inclusionary housing or providing mandatory inclusionary housing pursuant to the New York city zoning resolution, provided that such dwelling unit is not subject to federal or state requirements the department determines would be inconsistent with the provisions of this chapter and not filled by direct referral by a governmental agency or instrumentality, and provided further that such dwelling unit satisfies the additional conditions of paragraph 1 and 2:

1. Before July 1, 2021, such unit satisfies the conditions of subparagraph (a) or, on or after such date, such unit satisfies the conditions of subparagraph (a) or subparagraph (b):

(a) The issuance or renewal of such loan, grant or tax exemption, conveyance of such property or generation of such floor area bonus or effective date of such mandatory inclusionary housing requirement occurs or is executed or renewed, as determined by the department, on or after January 1, 2018.

(b) For the purposes of a requirement imposed pursuant to this chapter, such unit is deemed to have satisfied the conditions of this paragraph unless such unit is subject to a regulatory agreement with the department, such agreement was executed before January 1, 2018 and has not been thereafter renewed and the department determines that such agreement is inconsistent with such requirement; provided that, where the department determines that one or more dwelling units are exempt from one or more requirements imposed pursuant to this chapter because of a regulatory agreement that satisfies the foregoing conditions, the department shall electronically submit each year to the mayor and the speaker of the council a report identifying the number of such units, disaggregated by the affordable housing program to which such agreements apply; and

2. On or after July 1, 2020, such unit is offered by the owner for lease or sale, or shares of a cooperative corporation that would entitle the shareholder to occupancy of such unit under a proprietary lease are offered by the owner for sale.

Department. The term "department" means the department of housing preservation and development.

Dwelling unit. The term "dwelling unit" means a dwelling unit as defined in the housing maintenance code.

Housing portal. The term "housing portal" means the website created pursuant to section 26-1802.

Information, full unit. The term "full unit information" means, with respect to a dwelling unit, the following information:

- 1. Street address of the building containing such unit;*
- 2. Apartment or unit number of such unit;*
- 3. Floor area of such unit in square feet, unless such unit satisfies criteria the department establishes to determine whether collection or disclosure of such information would be impracticable;*
- 4. Number of bedrooms in such unit;*
- 5. Contact information for the owner of such unit or a person managing such unit on behalf of such owner;*
- 6. A statement as to whether such unit is occupied;*
- 7. A statement as to whether such unit is an affordable unit and, if such unit is an affordable unit, (i) a description of each affordable housing program for which such unit is serving as an affordable unit, (ii) the maximum lawful rent for such unit and (iii) the actual rent being charged for such unit, if any; and*
- 8. Such other information as the department may specify by rule.*

Information, limited unit. The term "limited unit information" means, with respect to a dwelling unit, the full unit information for such unit excluding the information described by paragraphs 2, 6, and 7 of the definition of full unit information; and

- 2. Any information described by paragraph 8 of such definition that the department specifies by rule.*

Information, offered unit. The term "offered unit information" means, with respect to a dwelling unit that is being offered for rent or sale or shares of a cooperative corporation that would entitle the shareholder to occupancy of such unit under a proprietary lease that are being offered for sale, the following information:

- 1. If such unit is being offered for rent:*
 - (a) The proposed monthly rent for such unit and, if a temporary reduction in such rent is being offered, including but not limited to a certain number of months in occupancy without rent, the net effective rent for such unit and the period that such net effective rent will apply; and*
 - (b) The amount and a description of each fee, if any, that occupants of such unit will be required to pay in addition to monthly rent for such unit;*
- 2. If such unit is being offered for sale or shares of a cooperative corporation that would entitle the shareholder to occupancy of such unit under a proprietary lease are being offered for sale:*
 - (a) The proposed sale price of such unit or such shares; and*
 - (b) The estimated annual property tax payments owed for such unit; and*
- 3. Whether the owner will be responsible for payment of utility services for such unit and for which utility services the owner is responsible;*
- 4. Unless such unit satisfies criteria the department establishes to determine whether disclosure of the following information would be impracticable, provided that disclosure of such information shall not be deemed impracticable if such unit is (i) in a newly constructed project and (ii) being rented or sold, or shares of a cooperative corporation that would entitle the shareholder to occupancy of such unit under a proprietary*

lease are being offered for sale, for the first time after such unit becomes or is due to become an affordable unit, in a manner determined by the department: a floor plan for such unit, including measurements for each room in such unit, or a floor plan of a dwelling unit that is located in the building that contains such unit and substantially identical to such unit, together with a statement indicating that such floor plan is of a dwelling unit that is located within such building and that is substantially identical to such unit;

5. Unless such unit satisfies criteria the department establishes to determine whether disclosure of the following information would be impracticable, provided that disclosure of such information shall not be deemed impracticable if such unit is (i) in a newly constructed project and (ii) being rented or sold, or shares of a cooperative corporation that would entitle the shareholder to occupancy of such unit under a proprietary lease are being offered for sale, for the first time after such unit becomes or is due to become an affordable unit, in a manner determined by the department: photographs of each room in such unit or photographs of each room in a dwelling unit that is located in the building that contains such unit and substantially identical to such unit, together with a statement indicating that such photographs are of a dwelling unit that is located within such building and that is substantially identical to such unit;

6. The number of floors in the building where such unit is located and a statement as to whether such unit has elevator access;

7. A description of the pet policy for such unit;

8. A statement as to whether the following amenities or services will be available to the occupant of such unit and whether such occupant will be required to pay a fee for using such amenities or services:

(a) Air conditioning;

(b) A gymnasium or pool located in or on the premises of such building;

(c) A security guard, watch person or a person with similar responsibilities is routinely in or on the premises of such building;

(d) A person responsible for accepting deliveries on behalf of such occupant is routinely in or on the premises of such building; and

(e) An intercommunication device that such occupant can use to allow entry into such unit or such building;

9. A description of the process to apply for occupancy of such unit, including:

(a) Whether any deposits, application fees or other charges are required to be paid before an applicant will be considered for occupancy of such unit and a statement as to which, if any, of such deposits, fees or charges are refundable;

(b) A listing of the qualifications, if any, that an applicant must possess to be considered for occupancy of such unit; and

(c) At the time such information is submitted, a statement indicating the status of the application process applicable to such unit in a manner established by the department; and

10. The contact information of a person that may be contacted for additional information relating to such unit.

Listed unit. The term "listed unit" means a dwelling unit for which full unit information and, where applicable, offered unit information has been provided to the department.

§ 26-1802 Housing portal. a. By no later than July 1, 2020, the department shall, with the cooperation of all other relevant agencies, create and thereafter maintain a website that:

1. Allows an owner of an affordable unit or a person acting on behalf of such owner to use such website to offer such unit for rent or sale or to offer shares of a cooperative corporation for sale that would entitle the shareholder to occupancy of such unit under a proprietary lease and accept applications for occupancy of such unit, if such person provides the department with full unit information and offered unit information for such unit in a time and manner established by department rule, provided further that the department shall, by no later than July 1, 2021, electronically submit to the mayor and the speaker of the council recommendations relating to allowing owners of dwelling units other than affordable units to use such website to offer such units for rent or sale and accept applications for occupancy of such units, provided further that nothing in this chapter shall be construed to prohibit (i) offering such units on a building-wide or project-wide basis in a manner established by the department or (ii) offering occupied affordable units which subsequently become vacant in accordance with department requirements; and

2. Allows a user of such website to:

- (a) View limited unit information and offered unit information for listed units;
 - (b) View full unit information for a listed unit if such user verifies, in a manner established by department rule, that such user is a lawful leaseholder or owner of such unit, or is a lawful owner of shares of a cooperative corporation that entitle the shareholder to occupancy of such unit under a proprietary lease, provided that this functionality (i) shall only be required on and after January 1, 2021, but may be implemented earlier than such date, and (ii) may be implemented through a system other than the housing portal;
 - (c) View a selection of listed units based on search criteria entered by such user;
 - (d) Apply for occupancy of each listed unit for which the owner thereof is accepting applications for occupancy through such website and for which such user appears to be eligible;
 - (e) Track the progress of applications submitted by such user through such website, including such user's position on waiting lists for listed units;
 - (f) Automatically populate applications for occupancy of listed units with information provided by such user;
 - (g) Receive notifications by electronic mail and text message when a new listed unit is posted that matches criteria specified by such user or posted information changes for a listed unit specified by such user;
 - (h) Obtain limited unit information for listed units in a non-proprietary format that permits automated processing; and
 - (i) Indicate in such website whether such user is interested in being considered for an affordable unit that subsequently becomes vacant, provided that consideration of users for such units may be carried out in a manner determined by the department, users shall only be considered for such units that satisfy their indicated preferences and such website may require users at regular intervals to review and update their relevant profile information.
- b. Commencing in 2020, the owner of a dwelling unit, excluding dwelling units owned and operated by the New York city housing authority, shall:
1. If the dwelling unit (i) is an affordable unit or (ii) satisfies the criteria to be deemed an affordable unit except that such unit does not satisfy the additional conditions set forth in paragraph 1 and 2 the definition of affordable unit, annually provide the department with full unit information for such unit in a time and manner established by department rule; and
 2. If the dwelling unit is an affordable unit and is available for rent or sale or if shares of a cooperative corporation are available for sale that would entitle the shareholder to occupancy of such unit under a proprietary lease, provide the department with offered unit information for such unit in a time and manner established by department rule.
- c. An owner of a dwelling unit that satisfies the criteria to be deemed an affordable unit except that such unit does not satisfy the additional conditions set forth in paragraphs 1 and 2 of the definition of affordable unit may make such unit that becomes vacant available through the portal, provided that such owner provides the department with offered unit information for such unit in a time and manner established by department rule. Notwithstanding any provision of this chapter to the contrary, any such unit that is required to be made available through the portal in accordance with department requirements must do so in accordance with this chapter.
- d. The department shall conduct outreach to owners of units described in subdivision c to encourage them to offer their occupied affordable units that subsequently become vacant via the portal.
- e. When information entered by a user in the portal indicates that the user has an income below 80 percent of area median income for such user's household size, the department shall notify such user with a link to the website for the New York city housing authority.
- f. 1. Nothing in this chapter shall be construed to require the provision to the department or the disclosure of information about any dwelling unit where the department determines that such disclosure could result in an unwarranted invasion of personal privacy of an occupant of or applicant for such unit.
 2. The city does not warranty the completeness, accuracy, content or fitness for any particular purpose of any information made available on the housing portal, nor are any such warranties to be implied or inferred with respect to the information furnished therein.

3. *The city is not liable for any deficiencies in the completeness, accuracy, content or fitness for any particular purpose or use of information provided by any third party and made available on the housing portal.*

4. *This chapter shall not be construed to create a private right of action to enforce its provisions. Failure to comply with this chapter shall not result in liability to an agency.*

§ 26-1803 Violations. a. An owner who fails to provide information with respect to a dwelling unit pursuant to subdivision b of section 26-1802 shall be subject to a civil penalty for each month as follows until such violation is corrected, except that (i) for a violation that occurs within the first six months that such unit is subject to the requirements of such subdivision, the department may, in lieu of imposing such a penalty, provide the owner of such unit with a written warning and (ii) the department may by rule establish alternative civil penalties relating to any dwelling unit in a building that contains four or fewer dwelling units, any dwelling unit in a building that is owner-occupied and contains six or fewer dwelling units or any dwelling unit in a building that is owned by a housing development fund company, as such term is defined in article 11 of the private housing finance law, and contains ten or fewer dwelling units, provided that such alternative civil penalties do not exceed the civil penalties that could be imposed in accordance with paragraphs 1 through 4 and subdivision b:

- 1. For the first six-month period, \$100 per month;*
- 2. For the second six-month period, \$250 per month;*
- 3. For the third six month-period, \$1,000 per month; and*
- 4. For the fourth six month-period and for each month thereafter, \$2,000 per month.*

b. For a second or subsequent violation of this chapter involving the same dwelling unit, the department may impose and recover a civil penalty that is twice the amount specified in subdivision a, as applicable.

c. The department may recover civil penalties pursuant to this section in an action in a court of appropriate jurisdiction or in a proceeding before the office of administrative trials and hearings acting pursuant to section 1049-a of the New York city charter.

d. Upon receipt of a credible complaint alleging that an owner has violated any provision of this chapter with respect to an affordable unit, the department shall investigate and, upon verifying such allegation in a manner to be determined by department rules, such owner shall be subject to a civil penalty in accordance with this section. The department shall by rule establish criteria for determining whether such a complaint is credible.

§ 2. This local law takes effect immediately.

JUMAANE D. WILLIAMS, *Chairperson*; ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, RITCHIE J. TORRES, BARRY S. GRODENCHIK, ERIC A. ULRICH; Committee on Housing and Buildings, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 1036-A

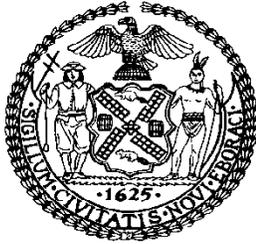
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to a census of vacant properties.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on April 7, 2016 (Minutes, page 4563), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 385-C printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1036-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 1036-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to a census of vacant properties

SPONSORS: Council Members Rodriguez, Chin, Gentile, Mealy, Mendez, Richards, Lander, Torres, Levine, Johnson, Menchaca, Kallos, Cornegy, Rosenthal, Palma, Levin, Van Bramer, Salamanca, Crowley, Barron, Rose, Reynoso, King, Koo, Gibson, Espinal, Constantinides, Treyger, Lancman, Miller, Perkins, Koslowitz and Dromm

SUMMARY OF LEGISLATION: Proposed Intro. No. 1036-A would require the Mayor, or an agency designated by the Mayor, to conduct an analysis and compile a list of vacant residential buildings and vacant lots in areas which are zoned to permit for residential use. This bill would also require the Department of Housing Preservation and Development, the Department of Environmental Protection, the Department of Buildings, the Department of Sanitation and the Fire Department to provide the Mayor with records concerning the physical condition of and services provided to any building to aid in determining whether the building or lot is vacant. The first vacancy analysis would be required within three years; afterwards, a new vacancy analysis would be required every five years.

EFFECTIVE DATE: This local law would take effect 180 days after it becomes law, except that the Mayor or the agency designated by the Mayor may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY19	FY Succeeding Effective FY20	Full Fiscal Impact FY19
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: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on December 16, 2015 as Intro. No. 1036 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on September 15, 2016, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1036-A, will be considered by the Committee on December 18, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 15, 2017

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1036-A:)

Int. No. 1036-A

By Council Members Rodriguez, Chin, Gentile, Mealy, Mendez, Richards, Lander, Torres, Levine, Johnson, Menchaca, Kallos, Cornegy, Rosenthal, Palma, Levin, Van Bramer, Salamanca, Crowley, Barron, Rose, Reynoso, King, Koo, Gibson, Espinal, Constantinides, Treyger, Lancman, Miller, Perkins, Koslowitz and Dromm.

A Local Law to amend the administrative code of the city of New York, in relation to a census of vacant properties

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of chapter 1 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-119.1 to read as follows:

§ 3-119.1 Citywide census of vacant properties. a. The mayor, or an agency designated by the mayor, shall analyze data provided under subdivisions b and c of this section to provide an estimate of the number of vacant residential buildings and vacant lots located in areas zoned to permit residential use. Such analysis need not be conducted with regard to vacant buildings or vacant lots located in coastal flood zones designated by the federal emergency management agency or other coastal flood zones designated or recognized by the city. The first such analysis shall be initiated no later than 90 days after the effective date of the local law that added this section and shall be completed within three years thereafter. A new vacancy analysis shall be conducted every five years thereafter.

b. The departments of housing preservation and development, environmental protection, buildings and sanitation and the fire department, and any other agency upon request of the mayor or such designated agency, shall provide to the mayor or such designated agency such records as may be provided lawfully concerning the physical condition of and services provided to any building or parcel of land within the city in order to aid the mayor or such designated agency in determining whether any building or lot is vacant.

c. The mayor or such designated agency shall compile a list of the potentially vacant buildings and potentially vacant lots disclosed as a result of such analysis. Sources of information relating to buildings and

lots shall include, but need not be limited to, records of the department of housing preservation and development, the department of finance and the department of buildings, and each agency shall provide to the mayor or such designated agency such information as shall be requested and that may be provided lawfully.

§ 2. This local law takes effect 180 days after it becomes law, except that the mayor or the agency designated by the mayor under this section may take such actions as are necessary for its implementation, including the promulgation of rules, before such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, RITCHIE J. TORRES, BARRY S. GRODENCHIK, ERIC A. ULRICH; Committee on Housing and Buildings, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 1039-A

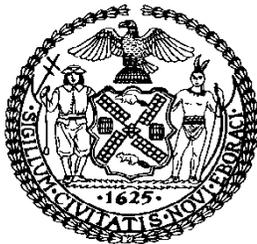
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to city-owned vacant property that may be suitable for the development of affordable housing.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on December 16, 2015 (Minutes, page 4569), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 385-C printed in these Minutes)

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



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 1039-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to city-owned vacant property that may be suitable for the development of affordable housing

SPONSORS: Council Members Williams, Chin, Koo, Mendez, Rodriguez, Lander, Torres, Levine, Johnson, Menchaca, Kallos, Cornegy, Rosenthal, Palma, Levin, Grodenchik, Van Bramer, Salamanca, Crowley, Barron, Reynoso, King, Rose, Ferreras-Copeland, Richards, Gibson, Espinal, Constantinides, Treyger, Lancman, Miller, Perkins, Koslowitz and Dromm

SUMMARY OF LEGISLATION: Proposed Intro. No. 1039-A would require the Department of Housing Preservation and Development (HPD) to submit an annual report by November 1 of each year to the Council and the Mayor that details the vacant buildings or lots under the jurisdiction of HPD, disaggregated by council district, including the development potential and feasibility of development at such sites as affordable housing.

EFFECTIVE DATE: This local law would take effect 180 days after it becomes law, except that the Commissioner of Housing Preservation and Development (HPD) may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY19	FY Succeeding Effective FY20	Full Fiscal Impact FY19
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: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by HPD to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on December 16, 2015 as Intro. No. 1039 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on September 15, 2016, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1039-A, will be considered by the Committee on December 18, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

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

Int. No. 1039-A

By Council Members Williams, Chin, Koo, Mendez, Rodriguez, Lander, Torres, Levine, Johnson, Menchaca, Kallos, Cornegy, Rosenthal, Palma, Levin, Grodenchik, Van Bramer, Salamanca, Crowley, Barron, Reynoso, King, Rose, Ferreras-Copeland, Richards, Gibson, Espinal, Constantinides, Treyger, Lancman, Miller, Perkins, Koslowitz and Dromm.

A Local Law to amend the administrative code of the city of New York, in relation to city-owned vacant property that may be suitable for the development of affordable housing

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 19 to read as follows:

*CHAPTER 19
CITY-OWNED VACANT PROPERTY THAT MAY BE SUITABLE FOR THE DEVELOPMENT OF
AFFORDABLE HOUSING*

§ 26-1901 City-owned vacant property under the jurisdiction of the department of housing preservation and development that may be suitable for the development of affordable housing.

By no later than November 1, 2018, and by November 1 of each year thereafter, the department of housing preservation and development shall, with the cooperation of all other appropriate agencies, report to the mayor and the speaker of the council the following information disaggregated by council district: a report of vacant buildings or lots under the jurisdiction of the department categorized according to the potential development or feasibility status of such buildings or lots as affordable housing.

§ 2. This local law takes effect 180 days it becomes law, except that the commissioner of housing preservation and development may take any actions necessary to its implementation prior to such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, RITCHIE J. TORRES, BARRY S. GRODENCHIK, ERIC A. ULRICH; Committee on Housing and Buildings, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 1120-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 and the New York city building code, in relation to notification of proposed soil or foundation work.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on March 9, 2016 (Minutes, page 646), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 385-C printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1120-A:



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1120-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to notification of proposed soil or foundation work

SPONSORS: Williams and Chin (by request of the Mayor)

SUMMARY OF LEGISLATION: Proposed Intro. No. 1120-A would require engineers, architects, contractors and owners to notify the Department of Environmental Protection (DEP) within 30 business days when excavation or drilling a depth greater than 50 feet in the Bronx or north of 135th Street in Manhattan, or greater than 100 feet elsewhere in the City. If DEP determines that the proposed activity is in close proximity to critical infrastructure, proponents would be required to obtain a permit from DEP, in addition to any permits or approvals required by the Department of Buildings (DOB).

EFFECTIVE DATE: This local law would take effect one year after it becomes law, except that the Commissioner of Environmental Protection (DEP) may take actions necessary for implementation, including the promulgation of rules, prior to its effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2020

FISCAL IMPACT STATEMENT:

	Effective FY19	FY Succeeding Effective FY20	Full Fiscal Impact FY20
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: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because DEP and DOB would use existing resources to implement this local law

and construction site contractors and owners would bear the costs of notifying DEP and obtaining permits pursuant to the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on March 9, 2016 as Intro. No. 1120 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on September 26, 2016, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. 1120-A, will be considered by the Committee on December 18, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 14, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1120-A:)

Int. No. 1120-A

By Council Members Williams, Chin, Kallos, Menchaca and Barron (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York and the New York city building code, in relation to notification of proposed soil or foundation work

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 24 of the administrative code of the city of New York is amended to add a new section 24-367 to read as follows:

§ 24-367 *Soil and foundation work; notification and permit required.* a. *Whenever soil or foundation work, as defined in chapter 33 of the New York city building code, for any purpose, is proposed to a depth greater than 50 feet in the borough of the Bronx or on or north of 135th Street in the borough of Manhattan, or greater than 100 feet in the borough of Brooklyn, Queens, or Staten Island or south of 135th Street in the borough of Manhattan, the owner of the premises, engineer, architect or contractor shall notify the department of environmental protection of the location of such activity at least 30 business days prior to commencement of such activity. Within 10 business days of receiving such notification, the department shall determine whether the location of such activity is in close proximity to critical infrastructure, as defined in rules promulgated by the department, and notify the owner of the premises, engineer, architect or contractor of such determination. If the department determines that the location of such activity is in close proximity to critical infrastructure, the owner of the premises, engineer, architect or contractor shall obtain a permit from the department prior to commencement of such activity. The issuance of any permit or approval by any agency of the city other than the department for such activity shall not relieve the owner of the premises, engineer, architect or contractor*

of the obligation to comply with the notification and permitting requirements of this section. The department may promulgate a rule waiving or amending the notification and permitting requirements of this section where the department determines that such activity must be performed on an emergency basis.

b. 1. The department may issue a stop work order whenever the department finds that any soil or foundation work in violation of this section or any rules promulgated thereunder creates a danger to critical infrastructure.

2. Such order shall be posted at the site of the soil or foundation work and served personally on or mailed to the owner or developer or to the person executing the work at the site or the agent of any of them. When there is an immediate danger to critical infrastructure, a verbal order to stop work may be given followed promptly by a written order in accordance with this subdivision.

3. Upon issuance of a stop work order, work specified in the order shall immediately cease, except work authorized or required by the commissioner to make the site safe.

4. No person shall, with knowledge or notice of a stop work order, allow, authorize, promote, continue or cause to be continued any work covered by the stop work order, except work authorized or required by the commissioner to make the site safe.

5. Upon application in accordance with the rules of the department, the commissioner shall rescind the stop work order where the commissioner finds (i) that the condition that gave rise to its issuance has been corrected and either all civil penalties or criminal fines assessed for any violation of such order have been paid or, where a violation is pending, security for the payment of such penalties or fines has been posted or, (ii) where the stop work order was issued in error or conditions are such that the order should not have been issued. The commissioner may by rule require the payment of a fee in the amount of the expense of additional inspection and administrative expense related to such stop work order.

6. It shall be unlawful to tamper with, remove or deface a written posted stop work order from the location where it was affixed unless and until such stop work order has been rescinded by the commissioner. The owner or other person in control of the location shall ensure that the stop work order remains posted until rescinded by the commissioner.

§ 2. Section 3304.3.3 of the New York city building code, as amended by local law number 141 for the year 2013, is amended to read as follows:

3304.3.3 Notification to the Department of Environmental Protection.

Whenever [excavation or drilling]soil or foundation work, for any purpose, is proposed to a depth greater than 50 feet (15 240 mm) in the borough of the Bronx or on or north of 135th Street in the borough of Manhattan, or greater than 100 feet (30 480mm) [is proposed in a block that has any part of its boundary falling within 500 feet (152 m) horizontal distance from the centerline of any water tunnel as measured at or near the surface (the “Corridor”), an approval and permit shall be obtained from the New York City Department of Environmental Protection. The] in the borough of Brooklyn, Queens, or Staten Island or south of 135th Street in the borough of Manhattan, the owner of the premises, engineer, architect or [the] contractor shall notify the New York City Department of Environmental Protection prior to commencement of [any] such activity in accordance with Section 24-367 of the Administrative Code and any rules promulgated thereunder. The issuance of any permit or approval by the department shall not relieve the applicant, owner, engineer, architect or contractor of the obligation to comply with any [approval] notification or permitting requirements of the New York City Department of Environmental Protection.

§ 3. This local law takes effect one year after it becomes law, provided, however, that the commissioner of environmental protection may take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, RITCHIE J. TORRES, BARRY S. GRODENCHIK, ERIC A. ULRICH; Committee on Housing and Buildings, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 1269-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 creation of regulatory agreements with community land trusts.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on September 14, 2016 (Minutes, page 3008), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 385-C printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1269-A:



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1269-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to the creation of regulatory agreements with community land trusts

SPONSORS: Council Members Richards, Miller, Rodriguez, Chin, Salamanca, Maisel, Grodenchik, Levin, Menchaca, Lander, Rosenthal, Reynoso, Kallos, Williams, Johnson, Rose, Perkins, Espinal, Ferreras-Copeland, King, Levine, Gentile, Cumbo, Van Bramer and Koslowitz

SUMMARY OF LEGISLATION: Proposed Intro. No. 1269-A would require the Department of Housing Preservation and Development (HPD) to enter into regulatory agreements with community land trusts (CLTs) which meet standard terms and conditions for regulatory agreements, and would allow HPD to enter into such agreements where the CLT is a recipient of city funding, property or a tax exemption.

EFFECTIVE DATE: This local law would take effect 120 days after it becomes law, except that the Commissioner of HPD may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
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: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by HPD to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division
New York City Department of Housing Preservation and Development

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on September 14, 2016 as Intro. No. 1269 and was referred to the Committee on Housing and Buildings (Committee). A joint hearing was held by the Committee with the Committee on Immigration on October 19, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. 1269-A, will be considered by the Committee on December 18, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 14, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1269-A:)

Int. No. 1269-A

By Council Members Richards, Miller, Rodriguez, Chin, Salamanca, Maisel, Grodenchik, Levin, Menchaca, Lander, Rosenthal, Reynoso, Kallos, Williams, Johnson, Rose, Perkins, Espinal, Ferreras-Copeland, King, Levine, Gentile, Cumbo, Van Bramer, Koslowitz and Barron.

A Local Law to amend the administrative code of the city of New York, in relation to the creation of regulatory agreements with community land trusts

Be it enacted by the Council as follows:

Section 1. Title twenty-six of the administrative code of the city of New York is amended by adding a new chapter 20 to read as follows:

CHAPTER 20

COMMUNITY LAND TRUST REGULATORY AGREEMENTS

§ 26-2001 Community land trust regulatory agreements. a. For the purposes of this section:

Eligible community land trust. The term “eligible community land trust” means a corporation that satisfies the following criteria: (i)(a) is incorporated pursuant to article 11 of the private housing finance law and section 402 of the not-for-profit corporation law; (b) the certificate of incorporation of which specifically provides for the provision of housing for persons of low income in the form of a community land trust; (c) has submitted such disclosure statements as shall be required by the supervising agency and received the approval of such supervising agency; (d) lawfully acquired all of its real property in full compliance with such corporation’s certificate of incorporation and any agreements with a governmental entity with respect to such property or such corporation; and (ii) provides in its by-laws that it will (a) acquire parcels of land, primarily for conveyance under long-term ground leases, (b) transfer ownership of any structural improvements located on such leased parcels to the lessees, (c) retain a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low-income households, and (d) have a board of directors composed of lessees of housing associated with the entity, an adult resident of a particular geographic area specified in the bylaws of the organization and any other category of persons described in the bylaws of the organization.

Persons of low income. The term “persons of low income” means “persons of low income” as defined in section 2(19) of the private housing finance law.

Supervising agency. The term “supervising agency” means the department of housing preservation and development.

b. The supervising agency shall enter into a regulatory agreement with an eligible community land trust that applies for such regulatory agreement and meets such supervising agency’s standardized terms and conditions for such agreement. Such regulatory agreement shall also require that the community land trust enter into a 99-year ground lease agreement with the owners of structures or improvements located on land which is subject to the regulatory agreement.

c. The supervising agency may enter into a regulatory agreement with an eligible community land trust, provided that such trust agrees to such terms and conditions as such agency deems necessary; and (i) is a recipient of a loan or grant from the city of New York; (ii) acquires real property or an interest therein from the city of New York; or (iii) receives a tax exemption approved by the council of the city of New York, upon the recommendation of the supervising agency.

§2. This local law shall take effect 120 days after it becomes law, except that the commissioner of housing preservation and development may take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

JUMAANE D. WILLIAMS, *Chairperson*; ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, RITCHIE J. TORRES, BARRY S. GRODENCHIK, ERIC A. ULRICH; *Committee on Housing and Buildings, December 18, 2017. Other Council Members Attending: Council Member Kallos.*

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. 1419-A

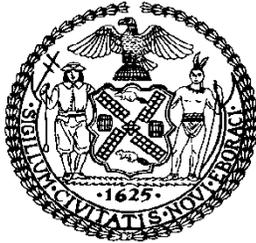
Report of the Committee on Housing and Buildings in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to penalties for construction site safety violations that result in or are accompanied by death or serious physical injury.

The Committee on Housing and Buildings, to which the annexed proposed amended local law was referred on January 18, 2017 (Minutes, page 167), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Housing and Buildings for Int. No. 385-C printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1419-A:



THE COUNCIL OF THE CITY OF NEW YORK

FINANCE DIVISION

LATONIA MCKINNEY, DIRECTOR

FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO: 1419-A

COMMITTEE: Housing and Buildings

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to penalties for construction site safety violations that result in or are accompanied by death or serious physical injury

SPONSORS: The Speaker (Council Member Mark-Viverito) and Council Members Crowley, Salamanca, Dromm, Gentile, Rosenthal, Rose, Reynoso, Levin, Espinal, Menchaca, Cornegy, Richards and Chin

SUMMARY OF LEGISLATION: Proposed Intro. No. 1419-A would allow the City, through civil action, to recover penalties of up to \$500,000 for companies and \$150,000 for individuals for a violation of the site safety provisions of the construction code, where the violation is accompanied by death or serious physical injury. In determining the amount of the civil penalty, the court would consider several factors, including the extent and severity of the injury, history of violations, degree of willfulness or negligence displayed by the defendant, and the defendant's financial resources.

EFFECTIVE DATE: This local law would take effect 180 days after it becomes law, except that the Commissioner of Buildings may take such measures as are necessary for its implementation, including the promulgation of rules, before such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY19	FY Succeeding Effective FY20	Full Fiscal Impact FY19
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 because full compliance with the relevant site safety provisions of the construction code is anticipated.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because existing resources would be used by the Department of Buildings and the New York City Law Department to implement the provisions of this local law and non-City entities would bear the costs of any penalties in connection with construction site safety violations pursuant to the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable.

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Sarah Gastelum, Principal Financial Analyst

ESTIMATED REVIEWED BY: Chima Obichere, Unit Head
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council on January 18, 2017 as Intro. No. 1419 and was referred to the Committee on Housing and Buildings (Committee). A hearing was held by the Committee on January 31, 2017, and the bill was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1419-A, will be considered by the Committee on December 18, 2017. Following a successful Committee vote, the bill will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1419-A:)

Int. No. 1419-A

By The Speaker (Council Member Mark-Viverito) and Council Members Crowley, Salamanca, Dromm, Gentile, Rosenthal, Rose, Reynoso, Levin, Espinal, Menchaca, Cornegy, Richards, Chin, Kallos, Lander and Barron.

A Local Law to amend the administrative code of the city of New York, in relation to penalties for construction site safety violations that result in or are accompanied by death or serious physical injury

Be it enacted by the Council as follows:

Section 1. Exception 5 of section 28-202.1 of the administrative code of the city of New York, as added by local law number 94 for the year 2017, is amended to read as follows:

[5.] 9. For a violation of section 28-210.1:

[5.1.] 9.1. Unless exception 5.2 applies, the minimum civil penalty for a violation of section 28-210.1 in any building involving the illegal conversion, maintenance or occupancy of three or more dwelling units above the number of dwelling units that is legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records shall be \$15,000. Each dwelling unit above the number that is legally authorized by the certificate of occupancy or if no certificate of occupancy is required as evidenced by official records shall constitute a separate offense that shall be charged separately and shall be punishable by a separate civil penalty. Provided, however, that the penalties for multiple violations of this exception may be based on the same evidence; and

[5.2.] 9.2. The owner of a building shall not be subject to a civil penalty for a violation of section 28-210.1 in such building if such owner can show the following:

[5.2.1.] 9.2.1. Such violation was the first such violation issued for such building or was issued within 30 days after such first violation;

[5.2.2.] 9.2.2 At the time such violation was issued or, if such violation was issued within 30 days after such first violation was issued, the time such first violation was issued, a registration for such building has been properly filed with the department of housing preservation and development in accordance with article two of subchapter 4 of the housing maintenance code; and

[5.2.3.] 9.2.3 At the time such violation was issued or, if such violation was issued within 30 days after such first violation was issued, the time such first violation was issued, such owner reasonably did not know of, or could not reasonably have known of such illegal conversion, the maintenance thereof or occupancy thereof and takes lawful immediate and diligent steps to cure said violation.

§ 2. Exception 6 of section 28-202.1 of the administrative code of the city of New York, as added by local law number 203 for the year 2017, is amended to read as follows:

[6.] 10. For violations of article 110 of this chapter or chapter 33 of the New York city building code:

[6.1.] 10.1. The minimum civil penalty for an immediately hazardous violation of such article or chapter shall be \$2,000, in addition to any separate daily penalty imposed pursuant to item 1 of this section; and

[6.2.] 10.2. The minimum civil penalty for a major violation of such article or chapter shall be \$1,000, in addition to any separate monthly penalty imposed pursuant to item 2 of this section.

§ 3. Article 202 of chapter 2 of title 28 of the administrative code of the city of New York is amended by adding a new section 202.4 to read as follows:

§ 28-202.4 Maximum civil penalty for immediately hazardous violation of chapter 33 of the New York city building code that results in death or serious physical injury. Notwithstanding any inconsistent provision of this article an immediately hazardous violation of a provision of chapter 33 of the New York city building code that results in death or serious physical injury, as such term is defined in article 10 of the New York state penal law, shall be punishable by a civil penalty of not more than \$500,000, or not more than \$150,000 if such violation is issued to an individual, which may be recovered in a civil action brought by the corporation counsel in the name of the city in any court of competent jurisdiction where:

1. There was a substantial probability that the violating condition would cause death or serious physical injury, as such term is defined in article 10 of the New York state penal law;
2. The defendant knew, or with reasonable diligence should have known, (i) of the existence of such violation and (ii) was in a position to remedy such violation or lessen the danger posed thereby; and
3. Such violation resulted in the death or serious physical injury, as such term is defined in article 10 of the New York state penal law, of a person.

§ 28-202.4.1 Determining the amount of the civil penalty to be imposed. In determining the amount of the civil penalty to be imposed the court shall consider:

1. The extent and severity of injury to persons and property;
2. The history of violations by the defendant of laws or rules enforced by the department;
3. The degree of willfulness, recklessness or negligence displayed by the defendant in committing the violation; and
4. The defendant's financial resources.

§ 4. This local law takes effect 180 days after it becomes law, except that the commissioner of buildings may take such measures as are necessary for its implementation, including the promulgation of rules, before its effective date.

JUMAANE D. WILLIAMS, *Chairperson*; ROBERT E. CORNEGY, Jr., MARK LEVINE, HELEN K. ROSENTHAL, RITCHIE J. TORRES, BARRY S. GRODENCHIK, ERIC A. ULRICH; Committee on Housing and Buildings, December 18, 2017. *Other Council Members Attending: Council Member Kallos.*

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. 512

Report of the Committee on Land Use in favor of approving Application No. 20175110 HHQ submitted by New York City Health and Hospitals Corporation, pursuant to Section 7385(6) of the HHC Enabling Act, for approval to lease a parcel of land on the campus of Queens Hospital Center to Dunn Development and NYC Partnership Housing Development Fund Company, Inc. for the development of approximately 206 units of affordable housing, Borough of Queens, Community Board 8, Council District 24.

The Committee on Land Use, to which the annexed Land Use item was referred on October 27, 2016 (Minutes, page 3598) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****QUEENS CB - 8****20175110 HHQ**

Application submitted by New York City Health and Hospitals Corporation, pursuant to Section 7385(6) of the HHC Enabling Act, for approval to lease a parcel of land on the campus of Queens Hospital Center to Dunn Development and NYC Partnership Housing Development Fund Company, Inc. for the development of approximately 206 units of affordable housing, Borough of Queens, Community Board 8, Council District 24.

INTENT

To approve the Lease by HHC of for a parcel of land approximately 167,000 square feet to Dunn Development Corporation to facilitate the renovation of the property in order to create 206 units of low income, moderate/middle income and supportive housing.

PUBLIC HEARING**DATE:** December 13, 2017**Witnesses in Favor:** Four**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** December 13, 2017

The Subcommittee recommends that the Land Use Committee approve the Lease by HHC, which will be sublease to Dunn Development Corp., pursuant to the Lease Agreement.

In Favor:

Koo, Palma, Mendez, Levin, Rose, Kallos.

Against:

None

Abstain:

Barron

COMMITTEE ACTION**DATE:** December 18, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Koo, Lander, Levin, Rose, Cohen, Kallos, Torres, Treyger, Grodenchik, Salamanca.

Against:

Barron

Abstain:

None

In connection herewith, Council Members Greenfield and Koo offered the following resolution:

Res. No. 1786

Resolution approving the leasing of a parcel of property consisting of approximately 167,000 square feet including the existing 10-story “T Building” of approximately 238,000 gross square feet located on the campus of the Queens Hospital Center, Borough of Queens, (20175110 HHQ; L.U. No. 512).

By Council Members Greenfield and Koo.

WHEREAS, the New York City Health and Hospitals Corporation (“HHC”), filed with the Council on October 7, 2016, a notice dated September 29, 2016, of the HHC Board of Directors’ authorization of the leasing agreement of a parcel of property consisting of approximately 167,000 square feet including the existing 10-story “T Building,” of approximately 238,000 gross square feet, on the campus of the Queens Hospital Center, Jamaica, Queens, between the New York City Health and Hospitals Corporation as landlord and T Building Housing Development Fund Company, Inc., a to-be-formed single purpose as entity of which NYC Partnership Housing Development Fund Company, Inc. is the sole member as nominee for the T Building LLC, a to-be-formed single purpose limited liability company, the managing member of which will be T Building Managers LLC, a to-be-formed single purpose entity of which Dunn Development Corp. will be the sole member, upon the terms and conditions set forth in the Health and Hospitals Corporation resolution authorizing said leasing, a copy of which is attached hereto (the “Leasing”), Community District 8, Borough of Queens;

WHEREAS, the Leasing is subject to review and action by the Council pursuant to Section 7385(6) of the Health and Hospitals Corporation Enabling Act;

WHEREAS, upon due notice, the Council held a public hearing on the Leasing on December 13, 2017; and

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

RESOLVED:

Pursuant to Section 7385(6) of the Health and Hospitals Corporation Enabling Act, the Council approves the Leasing in accordance with the terms and conditions set forth in the Board of Directors’ resolution authorizing the Leasing, a copy of which is attached hereto.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 18, 2017.

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 LU No. 797

Report of the Committee on Land Use in favor of filing, pursuant to a letter of withdrawal, Application No. 20185070 HAQ submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for property located at Block 10209, Lot 115, Borough of Queens, Community District 12, Council District 27.

The Committee on Land Use, to which the annexed Land Use item was referred on October 17, 2017 (Minutes, page 3587) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

QUEENS CB - 12

20185070 HAQ

Application submitted by the New York City Department of Housing Preservation and Development for approval of a real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law for property located at Block 10209, Lot 115.

PUBLIC HEARING

DATE: October 24, 2017

Witnesses in Favor: Two

Witnesses Against: None

By letter dated December 11, 2017 and submitted to the City Council on December 11, 2017, the Applicant withdrew the application.

SUBCOMMITTEE RECOMMENDATION

DATE: December 13, 2017

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

In Favor:

Salamanca, Cohen, Treyger.

Against:
None

Abstain:
None

COMMITTEE ACTION

DATE: December 18, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Koo, Lander, Levin, Rose, Barron, Cohen, Kallos, Torres, Treyger, Grodenchik, Salamanca.

Against:
None

Abstain:
None

In connection herewith, Council Members Greenfield and Salamanca offered the following resolution:

Res. No. 1787

Resolution approving a motion to file pursuant to withdrawal of the application for a tax exemption pursuant to Article XI of the Private Housing Finance Law for property located at Block 10209, Lot 115, Borough of Queens, Community District 12, (L.U. No. 797; Non-ULURP No. 20185070 HAQ).

By Council Members Greenfield and Salamanca.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on October 3, 2017 its request dated September 26, 2017 that the Council approve an exemption from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "Tax Exemption Request") for property located at Block 10209, Lot 115, Community District No. 12, Borough of Queens, Council District No. 27 (the "Exemption Area");

WHEREAS, upon due notice, the Council held a public hearing on the Project on October 24, 2017;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Tax Exemption Request;

WHEREAS, by submission dated December 11, 2017 and submitted to the City Council on December 11, 2017, the Applicant withdrew the application.

RESOLVED:

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

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 18, 2017.

Coupled to be Filed Pursuant to Letter of Withdrawal.

Report for L.U. No. 816

Report of the Committee on Land Use in favor of approving Application No. 20185102 HAM submitted by the New York City Department of Housing Preservation and Development for approval of a real property tax exemption pursuant to Article XI of the Private Housing Finance Law and termination of the prior tax exemption for property located at Block 393, Lot 47; and Block 406, Lot 27, Borough of Manhattan, Community District 3, Council District 2.

The Committee on Land Use, to which the annexed Land Use item was referred on November 16, 2017 (Minutes, page 4075) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 3

20185102 HAM

Application submitted by the New York City Department of Housing Preservation and Development for approval of a real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law and termination of the prior tax exemption for property located at Block 393, Lot 47; and Block 406, Lot 27.

INTENT

To approve a new real property tax exemption for the Exemption Area pursuant to Section 577 of Article XI of the Private Housing Law and terminate the prior tax exemption to ensure the continued affordability.

PUBLIC HEARING

DATE: November 14, 2017

Witnesses in Favor: One

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: December 13, 2017

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:

Salamanca, Cohen, Treyger.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: December 18, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Koo, Lander, Levin, Rose, Barron, Cohen, Kallos, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Salamanca offered the following resolution:

Res. No. 1788

Resolution approving a new real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law and termination of a prior exemption for property located at Block 393, Lot 47 and Block 406, Lot 27, Borough of Manhattan, Community District 3, (L.U. No. 816; Non-ULURP No. 20185102 HAM).

By Council Members Greenfield and Salamanca.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on November 1, 2017 its request dated October 30, 2017, that the Council take the following actions regarding a real property tax exemption for property located at Block 393, Lot 47 and Block 406, Lot 27, Community District No. 3, Borough of Manhattan, Council District No. 2 (the "Exemption Area");

Approve an exemption of the Exemption Area from real property taxes pursuant to Section 577 of Article XI of the Private Housing Finance Law (the "New Exemption");

Approve the termination of the prior exemption for the Exemption Area (the "Prior Exemption");

WHEREAS, HPD's requests is related to previously approved City Council Resolution No. 374 of June 26, 2002;

WHEREAS, upon due notice, the Council held a public hearing on the New Exemption on November 14, 2017;

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

RESOLVED:

Pursuant to Section 577 of the Private Housing Finance Law, the Council approves an exemption of the Exemption Area from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
 - a. "Company" shall mean B&N Housing LLC or a limited liability company that acquires the beneficial interest in the Exemption Area with the approval of HPD.
 - b. "Effective Date" shall mean December 17, 2015.
 - c. "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 393, Lot 47 and Block 406, Lot 27 on the Tax Map of the City of New York.
 - d. "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreements, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - e. "HDFC" shall mean UHAB Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - f. "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - g. "J-51 Benefits" shall mean any tax benefits pursuant to Section 489 of the Real Property Tax Law which are in effect on the Effective Date.
 - h. "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
 - i. "Owner" shall mean, collectively, the HDFC and Company.
 - j. "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the New York City Council on June 26, 2002 (Resolution No. 374).
 - k. "Regulatory Agreements" shall mean the Inclusionary Housing Regulatory Agreements between HPD and the Owner dated December 17, 2015 establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.
2. The Prior Exemption shall terminate with respect to the Exemption Area upon 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, commercial or community facility 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 Agreements, (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) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or 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 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, the Owner, or any past owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
 - d. All previous resolutions, if any, providing an exemption from or abatement of real property taxation with respect to the Exemption Area are hereby revoked as of 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 such J-51 Benefits.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 18, 2017.

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. 831

Report of the Committee on Land Use in favor of approving Application No. N 180133 HKM pursuant to Section 3020 of the New York City Charter, concerning the designation by the Landmarks Preservation Commission of the Salvation Army National and Territorial Headquarters located at 120-130 West 14th Street (Block 609, p/o Lot 2) as an historic landmark, Borough of Manhattan, Community District 2, Council District 3.

The Committee on Land Use, to which the annexed Land Use item was referred on December 11, 2017 (Minutes, page 4714) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 2****20185104 HKM (N 180133 HKM)**

Designation by the Landmark Preservation Commission [DL-499/LP-2565] pursuant to Section 3020 of the New York City Charter of the landmark designation of the Salvation Army National and Territorial Headquarters located at 120-130 West 14th Street (Tax Map Block 609, p/o Lot 23), as an historic landmark.

PUBLIC HEARING**DATE:** December 13, 2017**Witnesses in Favor:** Two**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** December 13, 2017

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

In Favor:

Koo, Palma, Mendez, Levin, Rose, Barron, Kallos.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** December 18, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Koo, Lander, Levin, Rose, Barron, Cohen, Kallos, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Koo offered the following resolution:

Res. No. 1789

Resolution affirming the designation by the Landmarks Preservation Commission of The Salvation Army National and Territorial Headquarters located at 120-130 West 14th Street, Borough of Manhattan, Designation List No. 499, LP-2565 (L.U. No. 831; 20185104 HKM; N 180133 HKM).

By Council Members Greenfield and Koo.

WHEREAS, the Landmarks Preservation Commission filed with the Council on October 26, 2017 a copy of its designation report dated October 17, 2017 (the "Designation Report"), including the designation pursuant to Section 3020 of the New York City Charter and Chapter 3 of Title 25 of the Administrative Code of the City of New York of The Salvation Army National and Territorial Headquarters located at 120-130 West 14th Street, Community District 2, Borough of Manhattan, as a landmark and Tax Map Block 609, p/o Lot 23, as its landmark site (the "Designation");

WHEREAS, the Designation is subject to review by the Council pursuant to Section 3020 of the New York City Charter;

WHEREAS, the New York City Planning Commission submitted to the Council on December 1, 2017, its report on the Designation dated November 29, 2017 (the "City Planning Commission Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on December 13, 2017; and

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

RESOLVED:

Pursuant to Section 3020 of the New York City Charter, and on the basis of the information and materials contained in the Designation Report and the City Planning Commission Report, the Council affirms the Designation.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 18, 2017.

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. 832

Report of the Committee on Land Use in favor of approving Application No. 20185132 HAM submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for property located at Block 376, Lot 31, Borough of Manhattan, Community District 3, Council District 2.

The Committee on Land Use, to which the annexed Land Use item was referred on December 11, 2017 (Minutes, page 4714) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****MANHATTAN CB - 3****20185132 HAM**

Application submitted by the New York City Department of Housing Preservation and Development for the approval of a new real property tax exemption pursuant Section 577 of Article XI of the Private Housing Finance Law and termination of the prior tax exemption for property located at Block 376, Lot 31.

INTENT

To approve a new real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law and terminate the prior exemption to ensure the continued affordability of the property.

PUBLIC HEARING**DATE:** December 13, 2017**Witnesses in Favor:** One**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** December 13, 2017

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:

Salamanca, Cohen, Treyger.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** December 18, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Koo, Lander, Levin, Rose, Barron, Cohen, Kallos Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Salamanca offered the following resolution:

Res. No. 1790

Resolution approving a new real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law and terminating the prior exemption for property located at Block 376, Lot 31, Borough of Manhattan, Community District 3, (L.U. No. 832; Non-ULURP No. 20185132 HAM).

By Council Members Greenfield and Salamanca.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on November 28, 2017 its request dated November 24, 2017 that the Council approve an exemption from real property taxes pursuant to Section 577 of the Private Housing Finance Law (the "New Exemption") and terminate the prior exemption for property located at Block 376, Lot 31, Borough of Manhattan, Community District No. 3, Council District No. 2 (the "Exemption Area");

WHEREAS, HPD's request is related to a prior tax exemption approved by City Council Resolution adopted June 29, 2008, Resolution No. 1534 (the "Prior Exemption");

WHEREAS, upon due notice, the Council held a public hearing on the Project on December 13, 2017;

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

RESOLVED:

Pursuant to Section 577 of the Private Housing Finance Law, the Council approves an exemption of the Exemption Area from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
 - a. "Effective Date" shall mean the date that HPD and the Owner enter into the Regulatory Agreement.

- b. "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 376, Lot 31 on the Tax Map of the City of New York.
 - c. "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - d. "HDFC" shall mean UHAB Housing Development Fund Corporation or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - e. "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - f. "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
 - g. "Owner" shall mean the HDFC.
 - h. "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the New York City Council on June 29, 2008 (Resolution No. 1534).
 - i. "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 New Exemption.
2. The Prior Exemption shall terminate upon 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, commercial or community facility 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) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or 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 New Exemption shall prospectively terminate.
 - b. The New Exemption shall apply to all land in the Exemption Area, but shall only apply to a building on the Exemption Area that exists on the Effective Date.

- c. Nothing herein shall entitle the HDFC, the Owner, or any past owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
 - d. All previous resolutions, if any, providing an exemption from or abatement of real property taxation with respect to the Exemption Area are hereby revoked as of 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.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 18, 2017.

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. 833

Report of the Committee on Land Use in favor of approving Application No. 20185127 HAK submitted by the Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law for the approval of a new urban development action area project and pursuant to Article XI of the private housing finance law for a new real property tax exemption for property located at 249 Mother Gaston Boulevard, Block 3675, Lot 8, Borough of Brooklyn, Community District 16, Council District 37.

The Committee on Land Use, to which the annexed Land Use item was referred on December 11, 2017 (Minutes, page 4715) and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 16

20185127 HAK

Application submitted by the New York City Department of Housing Preservation and Development for a real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law and an approval of Urban Development Action Area Project and disposition under Article 16 of the General Municipal Law for property at 249 Mother Gaston Boulevard (Block 3675, Lot 8), which was inadvertently omitted from the previously approved disposition and tax exemption.

INTENT

To approve an Urban Development Action Area Project, waiver of the urban development action area designation requirement and the Uniform Land Use Review Procedure, and real property tax exempt pursuant to Section 577 of Article XI of the Private Housing Finance Law and the conveyance of the disposition area for property located at 249 Mother Gaston Boulevard, which was inadvertently omitted from the original conveyance.

PUBLIC HEARING

DATE: December 13, 2017

Witnesses in Favor: One

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: December 13, 2017

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:

Salamanca, Cohen, Treyger.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: December 18, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Koo, Lander, Levin, Rose, Barron, Cohen, Kallos, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Salamanca offered the following resolution:

Res. No. 1791

Resolution approving an Urban Development Action Area Project, waiving the urban development action area designation requirement and the Uniform Land Use Review Procedure, conveyance of the Disposition Area, and approving a real property tax exemption pursuant to Article XI of the Private Housing Finance Law for property located at 249 Mother Gaston Boulevard (Block 3675, Lot 8), Borough of Brooklyn, Community District 16, (L.U. No. 833; 20185127 HAK).

By Council Members Greenfield and Salamanca.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on November 15, 2017 its request dated November 6, 2017 that the Council take the following actions regarding the following Urban Development Action Area Project (the "Project") located at 249 Mother Gaston Boulevard (Block 3675, Lot 8), Borough of Brooklyn (the "Disposition Area"):

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

WHEREAS, HPD's requests is related to previously approved City Council Resolution No. 2062 of December 11, 1996 and Resolution No. 2345 of May 14, 1997;

WHEREAS, upon due notice, the Council held a public hearing on the Project on December 13, 2017;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Tax Exemption Request;

RESOLVED:

The Council finds that the present status of the Disposition Area tends to impair or arrest the sound growth and development of the municipality and that the proposed Urban Development Action Area Project is consistent with the policy and purposes of Section 691 of the General Municipal Law;

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

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

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

The Project shall be developed in a manner consistent with the Project Summary that HPD has submitted to the Council on November 15, 2017, a copy of which is attached hereto.

Pursuant to Section 577 of the Private Housing Finance Law, the Council approves an exemption of the Exemption Area from real property taxes as follows:

For the purposes hereof, the following terms shall have the following meanings:

- (a) "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, and (ii) the date that HPD and the Owner enter into the Regulatory Agreement.
 - (b) "Exemption" shall mean the exemption from real property taxation provided hereunder.
 - (c) "Exemption Area" shall mean the real property located in the Borough of Brooklyn, City and State of New York, and identified as Block 3675, Lot 8 on the Tax Map of the City of New York.
 - (d) "Expiration Date" shall mean June 10, 2031.
 - (e) "HDFC" shall mean Park Monroe Housing Development Fund Corporation.
 - (f) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - (g) "Owner" shall mean the HDFC or any future owner of the Exemption Area.
 - (h) "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. 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, commercial or community facility use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
3. Notwithstanding any provision hereof to the contrary:
- a. The Exemption shall terminate if HPD determines 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, (iv) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, (v) the Exemption Area is conveyed to a new owner without the prior written approval by HPD, or (vi) the construction or demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the HDFC and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.

- b. The Exemption shall apply to all land in the Exemption Area, but shall only apply to a building in the Exemption Area that exists on the Effective Date.
 - c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid by or on behalf of the HDFC or any other owner of the Exemption Area prior to Effective Date.
4. In consideration of the Exemption, the owner of the Exemption Area shall, for so long as the Exemption shall remain in effect, waive the benefits, if any, of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state or federal law, rule or regulation.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, PETER A. KOO, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 18, 2017.

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 Parks and Recreation

Report for Int. No. 1466

Report of the Committee on Parks and Recreation in favor of approving a Local Law to amend the administrative code of the city of New York, in relation to cleaning park playground equipment after the spraying of pesticides.

The Committee on Parks and Recreation, to which the annexed proposed local law was referred on February 1, 2017 (Minutes, page 349), respectfully

REPORTS:

INTRODUCTION

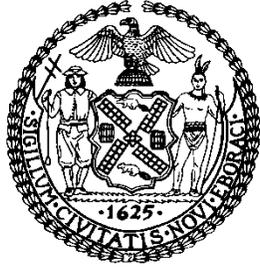
On December 18, 2017, the Committee on Parks and Recreation, chaired by Council Member Mark Levine, will hold a hearing to vote on Int. No. 1466, A Local Law to amend the administrative code of the city of New York, in relation to cleaning park playground equipment after the spraying of pesticides. More information on Int. No. 1466 can be accessed online at <https://goo.gl/9kb6WV>.

BACKGROUND

Int. No. 1466

Int. No. 1466 would require The Department of Parks and Recreation (DPR) to clean playground equipment in city parks within twenty four hours after the spraying of pesticides by any city agency where such equipment is within a minimum distance from such spraying. The bill would also require the Department of Health and Mental Hygiene, in consultation with DPR, to set such minimum distance by rule.

(The following is the text of the Fiscal Impact Statement for Int. No. 1466:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

INTRO. NO. 1466

COMMITTEE: Parks & Recreation

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to cleaning park playground equipment after the spraying of pesticides.

Sponsor: By Council Members Van Bramer, Levine, Salamanca, Rodriguez, Menchaca and Kallos

SUMMARY OF LEGISLATION: Intro. 1466 would require the Department of Parks and Recreation (DPR) to clean all park playground equipment within 24 hours of the spraying of any pesticide by or on behalf of a City agency. The bill would also require the Health Department, in consultation with the Parks Department, to develop a rule to determine the minimum distance from which a spraying occurs from a city park at which such equipment will not be exposed to such pesticides.

EFFECTIVE DATE: This local law would take effect immediately, except the requirement to clean the equipment would take effect 180 days after it becomes law, and except that the Commissioner of Parks and the Commissioner of Health and Mental Hygiene may take such measures as are necessary for the implementation of such sections, including the promulgation of rules, prior to such effective date.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2020

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY20
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$730,000	\$230,000
Net	\$0	(\$730,000)	(\$230,000)

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

IMPACT ON EXPENDITURES: It is estimated that there would be an impact of \$730,000 in Fiscal 2019 and \$230,000 in Fiscal 2020 and beyond to enact this legislation. In all years, it is estimated that the legislation would require overtime costs for three City Park Workers (CPWs) and 1 Crew Chief who would need to work four hours of overtime once a year to clean 500 sites. These costs would be \$230,068.96 per year. In addition, each of the five boroughs would require two vehicles equipped with pressure washing tanks, staff personal protective gear, tools, and signage. It is estimated that the one-time cost in Fiscal 2019 for these vehicles

would be \$500,000.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: New York City Council Finance Division
Department of Parks & Recreation

ESTIMATE PREPARED BY: Kenneth Grace, Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Chima Obichere, Unit Head
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Intro. No. 1466 on February 1, 2017 and referred to the Committee on Parks and Recreation. A hearing was held by the Committee on Parks and Recreation on December 5, 2017 and the legislation was laid over. Intro. No. 1466-A, will be reconsidered by the Committee on Parks and Recreation on December 18, 2017. Upon a successful vote by the Committee, Intro. No. 1466 will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 15, 2017.

Accordingly, this Committee recommends its adoption.

(The following is the text of Int. No. 1466:)

Int. No. 1466

By Council Members Van Bramer, Levine, Salamanca, Rodriguez, Menchaca and Kallos.

A Local Law to amend the administrative code of the city of New York, in relation to cleaning park playground equipment after the spraying of pesticides

Be it enacted by the Council as follows:

Section 1. Within 180 days of the effective date of the local law that added this section, the department of health and mental hygiene, in consultation with the department of parks and recreation, shall, by rule, establish the minimum distance between playground equipment and the spraying of a pesticide at which such equipment will not be exposed to such pesticides.

§ 2. Chapter 1 of title 18 of the administrative code of the city of New York is amended by adding a new section 18-148 to read as follows:

§ 18-148 *Cleaning playground equipment after pesticide exposure.* a. As used in this section, the following terms have the following meanings:

Park playground equipment. The term “park playground equipment” means playground equipment which is located within a playground operated by or under the jurisdiction of the department, including those for which the department has an agreement with a conservancy or other not-for-profit organization with respect to operation of any aspect of a playground.

Pesticide. The term “pesticide” shall have the same meaning as provided in section 17-1101 of this code.

b. Within 24 hours of the spraying of any pesticide by or on behalf of a city agency, the department shall clean all park playground equipment located less than the minimum distance from such spraying, as set forth in rule by the department of health and mental hygiene, at which such equipment will not be exposed to such pesticide.

§3. This local law takes effect immediately, except that section two of this local law shall take effect 180 days after it becomes law, and except that the commissioner of parks and the commissioner of health and mental hygiene may take such measures as are necessary for the implementation of such sections, including the promulgation of rules, prior to such effective date.

MARK LEVINE, *Chairperson*; FERNANDO CABRERA, JAMES G. VAN BRAMER, ANDREW COHEN, ALAN N. MAISEL, MARK TREYGER; Committee on Parks and Recreation, December 18, 2017.

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 Public Safety

Report for Int. No. 182-D

Report of the Committee on Public Safety in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring officers to identify themselves to the public.

The Committee on Public Safety, to which the annexed proposed amended local law was referred on March 12, 2014 (Minutes, page 697), respectfully

REPORTS:

I. INTRODUCTION

On December 18, 2017 the Committee on Public Safety, chaired by Council Member Vanessa Gibson, will vote on Proposed Introductory Number 182-D (Prop. Int. 182-D), in relation to requiring officers to identify themselves to the public and Proposed Introductory Number 541-C (Prop. Int. 541-C), in relation to requiring the New York Police Department (“NYPD” or “department”, to develop and provide guidance for its officers on obtaining consent to search individuals. The Committee previously held a hearing on these two bills on June 29, 2015 where members of the NYPD, community advocates and other interested members of the public provided testimony.

II. BACKGROUND

a. Community Safety Act

In 2011, the controversial NYPD practice of “stop, question and frisk” peaked with nearly 700,000 stops.¹ Advocates against the practice felt that young men of color were disproportionately, and unfairly, targeted for these stops. As a result of the communities’ frustrations, a class action lawsuit was filed in federal court alleging that the manner by which the department was using stop, question and frisk was a violation of the fourth and fourteenth amendments of the Constitution.² In 2013, a federal judge ruled that the NYPD’s

¹NYPD, 2011 4th Quarter Report on Stop, Question, and Frisk.

²Complaint at *Floyd v. New York* (08 Civ. 01034 (SAS)) (Jan. 31, 2008)

aggressive use of such stops was unconstitutional.³ In her order, the judge required the City to implement reforms including the use of body-worn cameras, which would be supervised by a court-appointed monitor.⁴

Around the same time, Council leaders and community advocates mounted a robust campaign against stop, question and frisk practices. The campaign led to the 2012 introduction of the Community Safety Act, which was a package of four bills aimed at ending discriminatory police practices, and increasing accountability and transparency of the NYPD.⁵ Two of the four bills became law on January 1, 2014.⁶ One bill established independent oversight of the NYPD by creating the position of inspector general within the City's Department of Investigation.⁷ The other bill expanded the definition of discriminatory profiling and allowed individuals to sue the NYPD for both individual cases and disproportionate impact on protected groups of people.⁸

Both bills being voted on today were part of the original Community Safety Act introduced in 2012. These bills were reintroduced in 2014. Collectively known as the Right to Know Act, Prop. Int. 182-D would require law enforcement officers to identify themselves in public and Prop. Int. 541-C would require the department to provide guidance for its officer on obtaining consent to search individuals. The court ruling and Council legislation contributed to a dramatic decrease in stops in 2013 and 2014, raising hopes among many that this transition offered an opportunity to reduce tensions between the police and communities. This decrease continued and as of September 30, 2017, the NYPD has conducted 8,067 stops this year.⁹

b. NYPD Current policy

In October of 2016, the department updated their policies relating to conducting consent searches and how officers identify themselves to the public. Police officers are required to courteously and clearly state their rank, name, shield number and command to any individual that requests it and allow enough time for the individual to record the information.¹⁰ In the alternative, an officer can offer the individual a "contact card" with such information completed.¹¹ In addition, while conducting checkpoints related to driving while intoxicated offenses, officers are required to offer the driver a contact card.¹²

According to the patrol guide, when conducting a consent search, officers must ask for consent to search in a manner that elicits a clear "yes" or "no" response and follow up by explicitly saying, "I can only search you, if you consent."¹³ The officer must then specifically ask the individual, "Do you understand?"¹⁴ If the consent search is conducted, the officer should offer the individual being searched a contact card at the conclusion of the search.¹⁵ If the individual does not consent to the search, the officer cannot conduct the search.¹⁶ If "feasible and consistent with personal safety," the officer can provide the individual with an explanation of the encounter.¹⁷ The officer may also inform the individual that he or she is free to leave, but is not required to inform the individual unless the officer is specifically asked.¹⁸

When searching a home, vehicle or item, an officer must give a contact card to the individual if a consent search is performed. If feasible, the officer should request that the individual sign a "consent to search" form which is a signed department form granting permission to the police officer or detective to conduct a search of

³*Floyd v. New York*, 959 F.Supp.2d 540 (SDNY 2013)

⁴*Floyd v. New York*, 959 F.Supp.2d 668 (SDNY 2013)

⁵ Local Law 70 of 2013; Local Law 71 of 2013; Int. No. 182-A; Int. No. 541

⁶*Id.*

⁷Local Law 70 of 2013

⁸ Local Law 71 of 2013

⁹ 1st-3rd Quarter "Stop, Question and Frisk" data submitted to the Council pursuant to Ad. Code §140.50

¹⁰ NYPD Patrol Guide Procedure No. 203-09 available at https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide1.pdf

¹¹ *Id.*

¹² *Id.* at 212-16

¹³ *Id.* at 212-11

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

the premise, vehicle or designated item. If practical, the officer can provide the person with a duplicate copy of the “consent to search” form.¹⁹

c. Body Worn Cameras

The NYPD initially conducted a pilot for body worn cameras with 1,200 officers equipped with the cameras in 20 precincts.²⁰ By the end of 2018, the department intends to supply 5,000 patrol officers with these cameras, and by the end of 2019, all 22,000 patrol officers will be equipped with body worn cameras.

After extensive community, stakeholder and public input, the department,²¹ in April of 2017 created their body worn camera policy.²² While the camera will not always be active, the policy specifies certain situations in which officers are mandated to activate their camera.²³ These situations include: 1. Arrests; 2. Summonses (other than parking violations); 3. Vehicle stops; 4. Interactions with persons suspected of criminal activity; 5. Searches of persons, and/or their belongs (including consent searches); and 6. Public interactions that escalate and become adversarial.²⁴ Members of the public can gain access to the body worn camera footage pursuant to the Freedom of Information Law.²⁵

III. ANALYSIS OF PROP. INT. 182-D

Section 1 of the bill outlines the legislative intent and findings of the Council. The goal of the proposed legislation is to increase transparency and foster stronger police and community relations with the department.

Section 2 of the bill would add a new section 14-174 to the Administrative Code of the City of New York, entitled “Identification of police officers.” The section defines an “assigned detective” as an NYPD detective who is leading a particular crime investigation. It also defines law enforcement activity as: 1. Non-custodial questioning of an individual suspected of criminal activity; 2. A pedestrian stop where an officer has reasonable suspicion that the person has committed, is committing, or about to commit a crime and where such person does not feel free to leave; 3. A frisk; 4. Searches of persons, or property, including vehicles; 5. A roadblock or checkpoint stop, including DWI checkpoints, but excluding planned vehicle security checks at sensitive locations, street closures due to public events or emergencies; 6. Home searches; and 7. Investigatory questioning of victims or witnesses to a crime. Finally, it defines the term “officer” as a sworn police officer of the department, which is analogous to the definition found in section 1.20 of the Criminal Procedure Law. This definition would encompass every sworn officer graduating from the academy, but would not include special patrolmen, such as school safety officers, and peace officers.

The bill would require that during a law enforcement activity the officer must identify him or herself and provide an explanation for the law enforcement activity, unless providing such information would impair a criminal investigation. If the individual is a minor, the officer may offer the card to a responsible adult if present at the scene, and when questioning victims/witnesses to a crime, only the assigned detective is required to offer a card. In addition, an officer shall offer a business card to any person requesting identifying information. The bill would also require that the cards be pre-printed and include the officer’s name, rank, shield number, a space to write the command of the officer and the 311 number to submit comments about the police/civilian encounter. The department would be required to develop and publish a plan to ensure that officers have an adequate number of cards prior to engaging in any law enforcement activity and the cards must be replenished within 30 days if the cards become unavailable. If an officer runs out of pre-printed cards, the officer can offer a handwritten card and if the officer runs out of both handwritten and pre-printed cards, such officer would be required to provide the identifying information verbally and allow sufficient time for the individual to record such information.

¹⁹ Operations Order 50 “Consent to Search Guidelines for Uniformed Members of the Service Assigned to the Detective Bureau and other Investigatory Commands/Units” available at

https://www1.nyc.gov/assets/nypd/downloads/pdf/analysis_and_planning/patrol_guide/oo_50_16.pdf

²⁰ <https://www1.nyc.gov/site/nypd/about/about-nypd/equipment-tech/body-worn-cameras.page>

²¹ https://marroninstitute.nyu.edu/uploads/content/NYPD_Officer_BWC_Questionnaire_Report.pdf

²² Operations Order number 21 (4/20/2017)

²³ Id.

²⁴ Id.

²⁵ Public Officers Law, Article 6.

The bill would not require officers to offer a business card in the following situations: 1. While undercover; 2. When exigent circumstances require immediate action by the officer; 3. If the officer reasonably expects that he or she or another person is in danger of physical injury or that there is an imminent risk of damage to property, to forestall the imminent escape of a suspect or the imminent destruction of evidence; 4. While conducting a security or identification check predicated upon entrance to a public building, facility location, event or gathering, including random subway bag checks, but if requested would have to offer a business card; and 5. Verifying a person's identity when seeking entry to a restricted area due to a public health/safety or security concern.

Section 3 of the bill includes a severability clause which indicates that if a portion of the bill is for any reason declared invalid, it would not affect the validity of the remain portions of the local law.

Section 4 of the bill states that the local law would take effect 9 months after it becomes law.

IV. AMENDMENTS TO 182-D

Proposed Int. 182-D has been amended since the bill was initially heard. The original version required officers to give a business card during traffic stops and all pedestrian stops. These pedestrian stops would cover the majority of daily interactions between an officer and a civilian such as if an officer asks an individual if they "saw anything," how the person is feeling or if the person had seen a missing child. Prop. Int. 182-D would not require an officer to affirmatively provide a business card during traffic stops and would require them to hand out cards during pedestrian stops which are non-custodial, where an officer questions an individual suspected of criminal activity. The current version of the bill also specifies that "roadblock or checkpoint stops" would exclude planned security checks of vehicles at sensitive locations or street closures for public events or emergencies. In addition, the prior version of the bill broadly defined officers to include peace officers and special patrolmen, whereas the current version of the bill would exclude them. Furthermore, the current version of the bill requires the assigned detective to hand out a business card to victim and witnesses of a crime and permits an officer to hand a card to a responsible adult at the scene in the case of a minor.

The original version of the bill required law enforcement officers to hand out a business card that included the name, rank, command of the officer and a number to the Civilian Complaint Review Board ("CCRB"). The current version of the bill specifies that these cards must be preprinted and only allows a handwritten card or verbal notification of the identifying information in the absence of a preprinted card. Additionally, the card includes a number to 311 customer service where individuals can submit comments about the police and civilian interaction rather than to the CCRB. Finally, the original version of the bill excluded officers not in uniform, and if the identification of an officer would compromise the immediate safety of the public or officers or would seriously compromise a specific, ongoing law enforcement investigation. The current version of the bill also includes plainclothes officers, but specifically excludes officers engaged in undercover activity and expands the exceptions.

V. ANALYSIS OF PROP. INT. 541-C

Section 1 of the bill declares the legislative intent and findings of the Council relating to the bill. The Council finds it necessary for the NYPD to provide guidance, with input from the community and Council, regarding gaining voluntary, knowing and intelligent consent to search and document these searches.

Section 2 of the bill adds a new section 14-173 to the Administrative Code, entitled "Guidance regarding consent searches." This section would require the department to develop and provide guidance for its officers that would specify conduct for: 1. Articulating, using plain and simple language, that the person is being asked to voluntarily, knowingly and intelligently consent to a search and explaining that such search will not be conducted if such person refuses to provide consent; 2. Secure the consent without threats or promises; 3. Affirm that the person understood what was being communicated; 4. Refrain from conducting the search if the person does not consent; and 5. Utilize interpretation services when communicating with a person with limited English proficiency.

If the officer is equipped with a body worn camera, the officer would be required to record the information communicated by the officer and the person's response and offer the person information on how to obtain a

copy of the video. An officer conducting a consent search would have to document the time, location date of the search and the apparent race/ethnicity, gender and age of the person who is subject of such search and the officer's name, precinct and shield number. The person can request a copy of the video and the department shall provide a copy of the video or a basis for the denial of the request within 90 days, or 120 days under extenuating circumstances.

The bill would not require the department's guidance to apply when: 1. An officer is undercover; 2. An officer is conducting a security or identification check predicated upon entrance to a public building, facility location, event or gathering, including random subway bag checks; 3. Exigent circumstances require immediate action by the officer; and 4. If the officer reasonably expects that he or she or another person is in danger of physical injury or that there is an imminent risk of damage to property, to forestall the imminent escape of a suspect or the imminent destruction of evidence. The bill would require the department to issue a quarterly report on consent searches and publish it on its website.

In the event that the NYPD does not provide body worn cameras to officers engaged in a patrol function by December 31, 2019 or otherwise ceases to use the cameras, the department must develop and implement an alternative method to gain objective proof of consent. If this occurs due to a decision solely due to circumstances within the control of the commissioner, the department shall have a procedure in place by that date. If this occurs due to circumstances outside the control of the commissioner, the department will have up to 6 months to develop and implement a new policy.

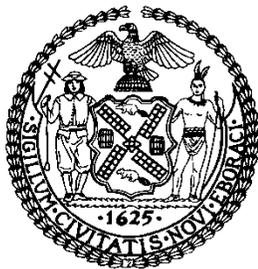
Section 3 of the bill includes a severability clause which indicates that if a portion of the bill is for any reason declared invalid, it would not affect the validity of the remain portions of the local law.

Section 4 of the bill states that the local law would take effect 120 days after it becomes law, and section 2 of the bill would take effect 9 months after it becomes law.

VI. AMENDMENTS TO PROP INT. 541-C

Prop. Int. 541-C has been amended since the bill was first heard. The original bill specified the method by which officers should gain voluntary consent prior to searching an individual. The amended version of the bill requires the NYPD to develop and implement guidance to direct officers in how to gain voluntary consent prior to searching an individual. The original bill required that officers create an audio or written and signed record of the person's voluntary consent, whereas the current version of the bill requires that officers wearing body worn cameras record the conversation between the officer and individual. The officer must also record the date, time and apparent race/ethnicity of the individual that was searched. The prior version of the bill required officers provide the individual with a copy of the proof of consent. The amended version of the bill requires the officer give information on how the individual can access the body worn camera footage of the encounter and the department must provide the footage or a basis for denial of the footage within 90 days of the request or 120 days under extenuating circumstances. The amended bill requires the department to develop a procedure if body worn cameras are not supplied by the department or are no longer used, whereas the original version of the bill did not include this contingency.

(The following is the text of the Fiscal Impact Statement for Int. No. 182-B:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
 LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 182-D

COMMITTEE: PUBLIC SAFETY

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring officers to identify themselves to the public

SPONSORS: By Council Members Torres, Williams, Chin, Levine, Mendez, Reynoso, Dromm, Johnson, Palma, Richards, Rose, Rosenthal, Kallos, Rodriguez, Levin, King, Menchaca, Miller, Cumbo, Ferreras-Copeland, Barron, Cornegy, Lancman, Espinal, Eugene, Koslowitz, Cohen, Salamanca, Mealy, Van Bramer, Treyger, Gentile, Perkins

SUMMARY OF LEGISLATION: Proposed Int. No. 182-D would require the New York City Police Department (NYPD) to provide a business card and the reasons for law enforcement activity during certain interactions with the public.

EFFECTIVE DATE: This local law would take effect 9 months after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2020

FISCAL IMPACT STATEMENT:

	Effective FY19	FY Succeeding Effective FY20	Full Fiscal Impact FY20
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$5.9 million	\$3.8 million	\$3.8 million
Net	(\$5.9 million)	(\$3.8 million)	(\$3.8 million)

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues as a result of this legislation.

IMPACT ON EXPENDITURES: It is estimated that Proposed Intro. No. 182-D would require the NYPD to supply all officers with business cards which would cost approximately \$5.9 million for the initial purchase. On an ongoing basis, it is estimated that the NYPD would spend approximately \$3.8 million each year to purchase business cards for newly hired and promoted officers and to resupply business cards as necessary. It is therefore estimated that the baseline impact on expenditure of Proposed Intro. No. 182-D would be approximately \$3.8 million a year.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

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

ESTIMATE PREPARED BY: Steve Riester, Senior Financial Analyst

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

LEGISLATIVE HISTORY: This legislation was first introduced to the Council as Intro. No. 801-2012 on February 29, 2012. The bill was re-introduced to the Council as Intro. No. 182-2014 on March 12, 2014 and was referred to the Committee on Public Safety (Committee). The legislation was amended after introduction and the Committee considered the amended legislation, Proposed Intro. No. 182-A at a hearing on June 29, 2015, and the legislation was laid over. The legislation was subsequently amended three more times and the amended legislation, Proposed Intro. No. 182-D, will be considered by the Committee on December 18, 2017. Upon a successful vote by the Committee, Intro. No. 182-D will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 14, 2017.

(For text of Int. No. 541-C and its Fiscal Impact Statement, please see the Report of the Committee on Public Safety for Int. 541-C printed in these Minutes; for text of Int. No. 182-D, please see below)

Accordingly, this Committee recommends the adoption of Int. Nos. 182-D and 541-C.

(The following is the text of Int. No. 182-D:)

Int. No. 182-D

By Council Members Torres, Williams, Levine, Mendez, Reynoso, Dromm, Johnson, Palma, Rosenthal, Kallos, Rodriguez, Levin, King, Menchaca, Miller, Cumbo, Ferreras-Copeland, Cornegy, Lancman, Espinal, Eugene, Koslowitz, Cohen, Salamanca, Mealy, Van Bramer, Treyger and Gentile.

A Local Law to amend the administrative code of the city of New York, in relation to requiring officers to identify themselves to the public

Be it enacted by the Council as follows:

Section 1. Declaration of legislative intent and findings. The Council finds that the people of the City of New York are in great debt to the hard work and dedication of police officers in their daily duties. The Council further finds that mistrust of law enforcement officers based on allegations of discrimination hinders law enforcement efforts and that greater transparency during encounters with the public would build trust in the work of the police. New York City Police Department policy already requires that officers wear shields and nameplates at all times while in uniform, and that they provide identifying information and offer a contact card when asked. Additionally, when an officer reasonably suspects that a person has committed, is committing or is about to commit a crime, Department policy directs that an officer provide identifying information and the factors that contributed to the officer's suspicion. In adopting this law, it is the intent of the Council to increase transparency in police practices and to build trust between police officers and members of the public by requiring the Department to provide members of the public with officer identification information and notice of the reasons behind their encounters with the police.

§ 2. Chapter 1 of title 14 of the administrative code of the city of New York is amended to add a new section 14-174 to read as follows:

§ 14-174 Identification of police officers.

a. Definitions. As used in this section, the following terms have the following meanings:

Assigned detective. The term "assigned detective" means a detective employed by the department who is leading the investigation of a particular crime.

Law enforcement activity. The term “law enforcement activity” means any of the following activities when conducted by an officer:

1. *Noncustodial questioning of individuals suspected of criminal activity;*
2. *Pedestrian stops where an officer has an individualized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime and where a reasonable person would not feel free to end the encounter at will;*
3. *Frisks;*
4. *Searches of persons or property, including vehicles;*
5. *Roadblock or checkpoint stops, including checkpoints related to enforcement of article 31 of the vehicle and traffic law, but not including planned security checks of vehicles at sensitive locations or street closures for public events or emergencies;*
6. *Home searches; and*
7. *Investigatory questioning of victims of or witnesses to crimes.*

Noncustodial questioning. The term “noncustodial questioning” means the questioning of an individual during an investigation where such individual has not been detained and is free to end the encounter at will.

Officer. The term “officer” means a sworn police officer of the department.

b. During a law enforcement activity, an officer shall:

1. *Identify himself or herself to the person who is the subject of such law enforcement activity by providing his or her name, rank and command;*
2. *Provide to such person an explanation of the reason for such law enforcement activity, unless providing such information would impair a criminal investigation;*
3. *Offer a business card to such person at the conclusion of any such activity that does not result in an arrest or summons, provided that where such person is a minor, the officer shall offer such business card to the minor or, if present at the scene, to a parent, legal guardian, or responsible adult, and provided further that where such activity is the first in-person investigatory questioning of victims of or witnesses to a crime, only the assigned detective for such investigation shall be required to offer such business card to such person at the conclusion of such activity;*
4. *Offer to provide to such person the information set forth in paragraph 1 of subdivision f on a hand-written card, when such officer does not have an adequate number of pre-printed business cards on his or her person at the time of such law enforcement activity; and*
5. *Offer to provide to such person the information set forth in paragraph 1 of subdivision f verbally and allow sufficient time for such person to record such information when such officer does not have an adequate number of pre-printed business cards or hand-written cards on his or her person at the time of such law enforcement activity.*

c. Notwithstanding the provisions of subdivision b, an officer shall offer a business card to any person requesting identifying information, or provide such information verbally to such person and allow such person sufficient time to record such information when such officer does not have an adequate number of pre-printed business cards or hand-written cards on his or her person at the time of such law enforcement activity.

d. The department shall develop a plan to ensure that officers have an adequate number of business cards prior to engaging in any law enforcement activity and that such cards be replenished within 30 business days after such cards become unavailable. The department shall publish such plan on the department's website. No later than 24 hours after any amendment to the department's plan, the department shall update such plan on the department's website to reflect such amendment and shall conspicuously note any amended language and the effective dates of such amended language.

e. An officer shall not be required to comply with this section where:

1. *Such officer is engaged in an approved undercover activity or operation, and law enforcement activity is taken pursuant to such undercover activity or operation;*
2. *Exigent circumstances require immediate action by such officer;*
3. *Such officer reasonably expects that he or she or any other person is in danger of physical injury or that there is an imminent risk of damage to property, or to forestall the imminent escape of a suspect or imminent potential destruction of evidence;*
4. *Such officer is conducting a security search of a person or property, including a consent search or identification check where such search or identification check is predicated upon entrance to a public building*

or facility, location, event, or gathering, including random security checks of backpacks and containers conducted in facilities operated by the metropolitan transportation authority, provided, however, such officer shall be required to identify himself or herself and offer a business card when such information is requested by the person who is the subject of such search or identification check; or

5. Such officer is verifying the identity of a person seeking entry to an area access to which is restricted by the department due to a public health, public safety or security concern, such as a terrorist attack or natural disaster.

f. Any business cards used by an officer to identify himself or herself to a person who is the subject of law enforcement activity shall be pre-printed and include, at a minimum:

1. The name, rank, shield number, and a space to write in the command of such officer, which shall be indicated; and

2. A phone number for the 311 customer service center and an indication that such phone number may be used to submit comments about the encounter between such officer and such person.

g. Nothing in this section or in the implementation thereof shall be construed to:

1. Restrict or limit any activity or proceeding regulated by the criminal procedure law or any other state law; or

2. Create a private right of action on the part of any persons or entity against the city of New York, the department, or any official or employee thereof.

§ 3 Severability. If any portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§ 4. This local law takes effect 9 months after it becomes law.

VANESSA L. GIBSON, Chair; VINCENT J. GENTILE, JULISSA FERRERAS-COPELAND, ROBERT E. CORNEGY, Jr., RAFAEL ESPINAL, Jr., RORY I. LANCMAN, RITCHIE J. TORRES; Committee on Public Safety, December 18, 2017.

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. 541-C

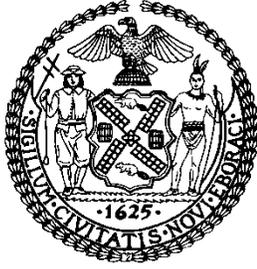
Report of the Committee on Public Safety in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring the New York police department to develop and provide guidance for its officers on obtaining consent to search individuals.

The Committee on Public Safety, to which the annexed proposed amended local law was referred on November 13, 2014 (Minutes, page 3930), respectfully

REPORTS:

(For text of the report, please see the Report of the Committee on Public Safety for Int. No. 182-D printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 541-C:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO. 541-C

COMMITTEE: PUBLIC SAFETY

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring the New York police department to develop and provide guidance for its officers on obtaining consent to search individuals

SPONSORS: By Council Members Reynoso, Torres, Williams, Lander, Dromm, Menchaca, Rose, Richards, Palma, Rosenthal, Johnson, Cornegy, Rodriguez, Levin, Chin, Kallos, Levine, Cumbo, Mendez, King, Ferreras-Copeland, Barron, Mealy, Espinal, Lancman, Miller, Salamanca, Eugene, Van Bramer, Gentile, Perkins, Treyger, and Adams

SUMMARY OF LEGISLATION: Proposed Int. No. 541-C would require the Police Department to develop and provide guidance to its officers with respect to obtaining voluntary, knowing, and intelligent consent prior to conducting a search based solely on an individual’s consent.

If the police officer is equipped with a body worn camera, the officer would be required to record the information communicated by the officer and the person’s response and offer the person information on how to obtain a copy of the video. An officer conducting a consent search would have to document the time, location date of the search and the apparent race/ethnicity, gender and age of the person who is subject of such search and the officer’s name, precinct and shield number.

Furthermore, the Department would be required to post quarterly reports on its website a report of data collected, specifically the total number of consents searches documented during the quarter disaggregated by, race/ethnicity, gender, age, and the precinct where each search occurred.

EFFECTIVE DATE: This local law would take effect in 120 days after it becomes law except that the requirement that officers document the information about the search and the person being searched would take effect 9 months after it becomes law.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$650,000	\$650,000
Net	\$0	(\$650,000)	(\$650,000)

IMPACT ON REVENUES: It is anticipated that there would be no impact on revenues as a result of this legislation.

IMPACT ON EXPENDITURES: It is estimated that Proposed Intro. No. 541-C would impact expenditures in the amount of \$650,000 because the NYPD would incur a one-time cost to create a database in order to track the search data required by the legislation the NYPD.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

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

ESTIMATE PREPARED BY: Steve Riester, Senior Financial Analyst

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

LEGISLATIVE HISTORY: This legislation was first introduced to the Council as Intro. No. 799-2012 on February 29, 2012. The bill was re-introduced to the Council on November 13, 2014 as Intro. No. 541-2014 and was referred to the Committee on Public Safety (Committee). The Committee considered the legislation at a hearing on June 29, 2015, and the legislation was laid over. The legislation was subsequently amended three times and the amended legislation, Proposed Intro. No. 541-C, will be considered by the Committee on December 18, 2017. Upon a successful vote by the Committee, Intro. No. 541-C will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 14, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 541-C:)

Int. No. 541-C

By Council Members Reynoso, Torres, Williams, Lander, Dromm, Menchaca, Rose, Richards, Palma, Rosenthal, Johnson, Cornegy, Rodriguez, Levin, Chin, Kallos, Levine, Cumbo, Mendez, King, Ferreras-Copeland, Barron, Mealy, Espinal, Lancman, Miller, Salamanca, Eugene, Van Bramer, Gentile, Perkins, Treyger and Adams.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the New York police department to develop and provide guidance for its officers on obtaining consent to search individuals

Be it enacted by the Council as follows:

Section 1. Declaration of legislative intent and findings. The Council finds that many New Yorkers are unaware of their constitutional rights when interacting with law enforcement officers. The Council further finds that, according to reports issued by the Civilian Complaint Review Board from 2014-2016, alleged improper searches of persons, vehicles, and homes are a persistent source of civilian complaints related to alleged officer misconduct. Therefore, the Council finds that it is necessary for the Police Department to develop, with input from the community and Council, and provide guidance regarding advising individuals of their right to be secure against unreasonable searches and seizures, as provided by the Fourth Amendment to the United States Constitution, so that searches that are based solely on an individual's consent are predicated on an individual's voluntary, knowing, and intelligent consent. Furthermore, in the event the Department has to develop a procedure to document voluntary, knowing, and intelligent consent to search other than through the use of body-worn cameras, such procedure should be developed with community and Council input.

§ 2. Chapter 1 of title 14 of the administrative code of the city of New York is amended to add a new section 14-173 to read as follows:

§ 14-173 Guidance regarding consent searches.

a. The department shall develop and provide guidance for its officers, whether in uniform or civilian clothing, not including those engaged in undercover operations, with respect to obtaining voluntary, knowing, and intelligent consent prior to the search of a person, or a person's vehicle, home, or property, for a search that is based solely on a person's consent to such search, when such search is not conducted pursuant to a warrant, any other exception to the warrant requirement under applicable law, or probable cause, or when such search is not incident to a lawful arrest. Such guidance shall specify conduct for:

1. Articulating, using plain and simple language delivered in a non-threatening manner, that the person who is the subject of the search is being asked to voluntarily, knowingly, and intelligently consent to such search, and explaining that such search will not be conducted if such person refuses to provide consent to such search;

2. Securing such consent without threats or promises of any kind being made to such person;

3. Affirming that such person understands the information communicated pursuant to paragraph 1;

4. Refraining from conducting such search where such consent has not been obtained; and

5. Utilizing interpretation services pursuant to the department's language access plan, as appropriate, when seeking consent to conduct a search of a person with limited English proficiency or such person's vehicle, home, or property, including but not limited to the use of bilingual officers and telephonic interpretation, prior to conducting such search.

b. An officer who seeks consent to conduct a search that is subject to the guidance developed and provided pursuant to subdivision a shall:

1. Create a video record of the information communicated pursuant to such guidance and such person's response to such information when such officer is equipped with a body-worn camera issued by the department; and

2. Document the time, location, and date of such search, and the apparent race/ethnicity, gender, and age of the person who was the subject of such search, and such officer's name, precinct, and shield number.

c. Where an officer has created a video record pursuant to subdivision b, such officer shall offer the person who is the subject of the search information on obtaining a copy of such record. Upon receiving a request from such person for a copy of such record, the department shall acknowledge receipt of such request within five days of receiving such request. Such acknowledgment shall include a date by which the department will provide such record or the basis for the denial of such request, provided that such date shall not be longer than 90 days from the date of receipt of such request. If the department is unable to provide such copy or denial to such person within 90 days due to extenuating circumstances, it shall provide such record or denial within 30 days of such 90 days and provide the basis of such circumstances.

d. Notwithstanding any other provision in this section, the guidance developed and provided by the department pursuant to subdivision a need not apply when:

1. An officer is conducting a security search of a person or property where such search is predicated upon entrance to a public building or facility, location, event, or gathering, including random security checks of backpacks and containers conducted in facilities operated by the metropolitan transportation authority, and where such person's entrance into any such location constitutes implied consent to be searched under an exception to the warrant requirement;

2. Exigent circumstances require immediate action by law enforcement; or

3. An officer reasonably expects that he or she or any other person is in danger of physical injury or that there is an imminent risk of damage to property, or to forestall the imminent escape of a suspect or the imminent potential destruction of evidence.

e. Commencing within 30 days of the end of the quarter beginning on October 1, 2018, and within 30 days of the end of every quarter thereafter, the department shall post on its website a report of data collected pursuant to paragraph 2 of subdivision b, specifically the total number of consent searches conducted during the preceding quarter disaggregated by the:

1. Apparent race/ethnicity, gender, and age of the person searched; and

2. Precinct where each search occurred, and further disaggregated by the apparent race/ethnicity, gender, and age of the person searched.

f. The information required pursuant to subdivision e for each reporting period shall be stored permanently and shall be accessible from the department's website, and shall be provided in a format that permits automated processing. Each report shall include a comparison of the current reporting period to the prior four reporting periods, where such information is available.

g. Nothing in this section or in the implementation hereof shall be construed to:

- 1. Restrict or limit any activity or proceeding regulated by the criminal procedure law or any other state law; or*
- 2. Create a private right of action on the part of any persons or entity against the city of New York, the department, or any official or employee thereof.*

h. 1. In the event body worn cameras are not provided by the department to officers engaged in a patrol function, whether in uniform or civilian clothing, by December 31, 2019, or the department ceases to use such cameras, the department shall (i) develop and implement a procedure to obtain objective proof of voluntary, knowing, and intelligent consent to search by documenting the information communicated by an officer pursuant to the guidance that the department developed pursuant to subdivision a and the response of the person who is the subject of such search in writing and by offering such person to sign a statement confirming such consent, or by documenting such information through audio, through video and audio, or by other methods, excluding fingerprinting; and (ii) develop a process for such person to request such information or record.

2. If body worn cameras are not provided by the department by December 31, 2019, or the department ceases to use such cameras solely due to circumstances within the control of the commissioner, the department shall develop and implement such procedure by such date.

3. If body worn cameras are not provided by the department by December 31, 2019, or the department ceases to use such cameras due to circumstances not within the control of the commissioner, the department shall develop and implement such procedure no later than 6 months from such date or the date on which the department ceases to use such technology.

i. Notwithstanding any other provision in this section, the procedure developed by the department pursuant to subdivision h need not apply when:

1. An officer is conducting a security search of a person or property where such search is predicated upon entrance to a public building or facility, location, event, or gathering, including random security checks of backpacks and containers conducted in facilities operated by the metropolitan transportation authority, and where such person's entrance into any such location constitutes implied consent to be searched under an exception to the warrant requirement;

2. Exigent circumstances require immediate action by law enforcement; or

3. An officer reasonably expects that he or she or any other person is in danger of physical injury or that there is an imminent risk of damage to property, or to forestall the imminent escape of a suspect or the imminent potential destruction of evidence.

§ 3. Severability. If any portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this local law, which remaining portions shall continue in full force and effect.

§ 4. This local law takes effect 120 days after it becomes law, provided that paragraph 2 of subdivision b of section 14-173 of the administrative code of the city of New York, as added by section 2 of this local law, takes effect 9 months after it becomes law.

VANESSA L. GIBSON, Chair; VINCENT J. GENTILE, JULISSA FERRERAS-COPELAND, JUMAANE D. WILLIAMS, ROBERT E. CORNEGY, Jr., RAFAEL ESPINAL, Jr., RORY I. LANCMAN, RITCHIE J. TORRES; Committee on Public Safety, December 18, 2017.

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 Small Business

Report for Int. No. 1499-A

Report of the Committee on Small Business in favor of approving and adopting, as amended, a Local Law in relation to requiring the commissioners of sanitation and consumer affairs to study the feasibility of a penalty mitigation program.

The Committee on Small Business, to which the annexed proposed amended local law was referred on March 16, 2017 (Minutes, page 796), respectfully

REPORTS:

INTRODUCTION

On Monday, December 18, 2017 the Committee on Small Business, chaired by Council Member Robert Cornegy, will consider Proposed Introduction Number 1499-A (Proposed Int. No. 1499-A), a Local Law in relation to requiring the commissioners of sanitation and consumer affairs to study the feasibility of a penalty mitigation program.

The original version of this legislation was previously heard by the Committee on Monday April 24, 2017. At that hearing, the Committee heard testimony from representatives of the Department of Small Business Services, the Department of Consumer Affairs, the Department of Housing Preservation and Development, various Chambers of Commerce, advocates, representatives of business owners and other interested members of the public.

BACKGROUND

According to the Department of Small Business Services, (SBS), there are 200,000 small businesses located in the New York City (NYC or the City), 98 percent of which are small (fewer than 100 employees) and 89 percent of which are very small (fewer than 20 employees).¹ Improving the local regulatory climate for these establishments has been a concern of the Council and the Administration for several years. For example, Local Law 45 of 2009 (Local Law 45) created the Regulatory Review Panel (“the Panel”) to recommend legislative and administrative changes to reduce certain regulatory burdens upon small businesses.² As a result of this review process eventually came Local Law 153 of 2013 (Local Law 153) , which allowed the Department of Consumer Affairs (DCA), as well as the Departments of Environmental Protection (DEP) and Sanitation (DSNY), to make certain first-time violations “curable,” whereby respondents can avoid civil penalties if they comply within a certain timeframe.³ In keeping with the momentum of Local Law 45 and Local Law 153 to reduce the regulatory burden upon small businesses in the City, DCA announced a “Small Business Relief Package” in July 2014.⁵

¹ Preliminary mayor’s Management Report, Small Business First, 2017
http://www1.nyc.gov/assets/operations/downloads/pdf/pmmr2017/small_business_first.pdf

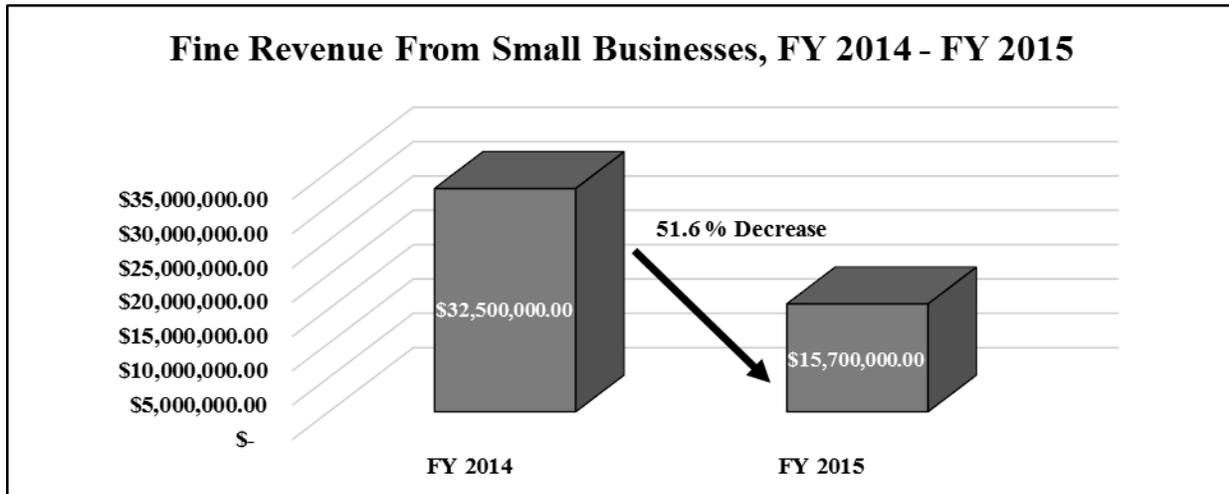
² New York City Council, Local Law 45 of 2009,
<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=452636&GUID=0AD044A0-7CE4-4D43-83A0-C70B016E1821&Options=Advanced&Search=> . See also: Regulatory Review Panel Report. (n.d.). Retrieved April 17, 2017, from http://www.nyc.gov/html/nycrules/downloads/pdf/regulatory_review_panel_report.pdf

³ New York City Council, Local Law 153 of 2013,
<http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1531346&GUID=FA71F477-A3B1-4E41-859C-D7F07865EF02&Options=Advanced&Search=> . See also: Cure Law Frequently Asked Questions. (2014, July 1). (n.d.) Retrieved April 17, 2017, from <https://www1.nyc.gov/assets/dca/downloads/pdf/about/CureLaw-FAQs.pdf>

⁴ Local Law 153 of 2013, codified the recommendations of the Mayor’s Office of Operations’ report entitled “Cure Period Review,” which was prepared pursuant to Local Law 35 of 2013 (Local Law 35). Local Law 35, by extension, was a local law that was promulgated following the regulatory review process that was the result of Local Law 45 of 2009.

⁵ How the Department of Consumer Affairs is Reducing Fines for Small Businesses and Expanding Outreach. (2014, July). Retrieved April 11, 2017, from http://www1.nyc.gov/assets/dca/downloads/pdf/businesses/SmallBusinessReliefPackage_One%20Pager.pdf

Local Law 65 of 2015 (Local Law 65) and Local Law 66 of 2015 (Local Law 66) were enacted in continuation of the Council’s work to support small businesses. Local Law 65 requires that the business owner’s bill of rights, which advises business owners of their rights as they relate to agency inspections, include translations in at least the top six languages spoken by limited-English proficient individuals. Local Law 66 established small business advocates within SBS dedicated to helping business owners obtain appropriate services from the Department and other government agencies, required that the contact information for the small business advocates be prominently displayed on certain city websites, and required a report on the number and type of requests received, as well as the assistance that was provided in response to each request.



In July 2015, City officials announced that fine revenue collected from small businesses had fallen to \$15.7 million from \$32.5 million from Fiscal Year (FY) 2014 to FY 2015 (see chart above).⁶ Additionally, over the course of FY 2015, DCA issued approximately 3,700 curable violations to small businesses.⁷

ANALYSIS OF LEGISLATION

ANALYSIS OF PROPOSED INT. NO. 1499-A

Section one of Int. No. 1499 sets forth the definitions of “food service establishment,” “penalty mitigation program,” and “retail establishment.”

Section two would require the Commissioner of Sanitation to review violations enforced by the Department of Sanitation (DSNY), study the feasibility of establishing a penalty mitigation program for such violations, and provide a report summarizing the results of the review to the Mayor and to the Council. The Commissioner of DSNY may promulgate rules establishing the penalty mitigation program if such program is appropriate based on the feasibility study. The violation review, feasibility study, and rule promulgation must occur within two years of the enactment of this legislation.

Section three would require the Commissioner of Consumer Affairs to review violations enforced by the Department of Consumer Affairs (DCA), study the feasibility of establishing a penalty mitigation program for such violations, and provide a report summarizing the results of the review to the Mayor and to the Council. The Commissioner of DCA may promulgate rules establishing the penalty mitigation program if such program is appropriate based on the feasibility study. The violation review, feasibility study, and rule promulgation must occur within two years of the enactment of this legislation.

Section four provides that the local law takes effect immediately.

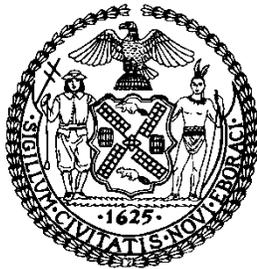
⁶ Jorgensen, J. (2015, July 31). De Blasio Administration Touts Drop in Small Business Fines. Retrieved April 14, 2017, from <http://observer.com/2015/07/de-blasio-administration-touts-drop-in-small-business-fines/>

⁷ Davies, E. (2015, July 31). City cuts fines levied on small businesses by half. Retrieved April 14, 2017, from <http://www.craigslist.com/article/20150731/SMALLBIZ/150739965/nyc-cuts-fines-for-small-businesses-by-half-violations-by-a-third>

SIGNIFICANT AMENEMENTS TO INT. NO. 1499

Int. No. 1499 originally required the Commissioners of Housing Preservation and Development, Buildings, Fire, Health and Mental Hygiene, Consumer Affairs, and Sanitation to review the violations enforced by their respective agencies and to generate of list of penalties that may be waived through participation in a penalty mitigation program. Each Commissioner would have also been required to submit a report to the Mayor and the Council a report providing an explanation for any such violations which were not included in such list. The amended version of the bill reduced the application of the legislation to now only mandate that the Commissioners of Consumer Affairs and Sanitation review certain violations enforced by their respective departments.

(The following is the text of the Fiscal Impact Statement for Int. No. 1499-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO: 1499-A

COMMITTEE: Small Business

TITLE: A Local Law in relation to requiring the commissioners of sanitation and consumer affairs to study the feasibility of a penalty mitigation program

SPONSOR(S): By The Speaker (Council Member Mark-Viverito), Council Members Corney, and Kallos

SUMMARY OF LEGISLATION: Proposed Intro. No. 1499-A would require the Commissioners of Sanitation and Consumer Affairs to, within two years of the enactment of the legislation, conduct a review of violations enforced by each respective agency to study the feasibility and appropriateness of establishing a penalty mitigation program regarding certain violations issued to food service establishments or retail establishments and promulgate rules accordingly. Each agency would be required to submit a report to both the Mayor and the Council summarizing the results of the review.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
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 this legislation.

IMPACT ON EXPENDITURES: It is anticipated that there would be no impact on expenditures resulting from the enactment of this legislation because Department of Consumer Affairs and Department of Sanitation can use existing resources to implement the provisions of this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Aliya Ali, Senior Financial Analyst

ESTIMATE REVIEWED BY: Rebecca Chasan, Counsel
Cirilhen Francisco, Unit Head
Nathan Toth, Deputy Director

LEGISLATIVE HISTORY: This legislation was introduced to the Council on March 16, 2017 as Intro. No. 1499 and was referred to the Committee on Small Business. The Committee considered the legislation at a hearing on April 24, 2017 and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1499-A, will be voted on by the Committee at a hearing on December 18, 2017. Upon successful vote by the Committee, Proposed Intro. No. 1499-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 12, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1499-A:)

Int. No. 1499-A

By The Speaker (Council Member Mark-Viverito) and Council Members Cornegy, Kallos, Menchaca and Perkins.

A Local Law in relation to requiring the commissioners of sanitation and consumer affairs to study the feasibility of a penalty mitigation program

Be it enacted by the Council as follows:

Section 1. As used in this local law, the following terms have the following meanings:

Food service establishment. The term “food service establishment” means a premises or part of a premises where food is provided directly to the consumer whether such food is provided free of charge or sold, and whether consumption occurs on or off of the premises or is provided from a pushcart, stand or vehicle and shall include, but not be limited to, full-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks or carts and cafeterias.

Penalty mitigation program. The term “penalty mitigation program” means:

(i) For a food service establishment, a program that allows such establishment to have civil penalties waived if such establishment complies with the requirements of a program designed to encourage such food service establishment to donate excess food to an appropriate not-for-profit organization; or

(ii) For a retail establishment, a program that allows such establishment to have civil penalties waived if such establishment complies with the requirements of a program designed to encourage such retail establishment to make their restrooms available to the public.

Retail establishment. The term “retail establishment” means an establishment, other than a food service establishment, that sells products and has a restroom.

§ 2. Within 2 years of the enactment of this section, the commissioner of sanitation shall:

a. Conduct a review of violations enforced by the department of sanitation, pursuant to title 16 of the administrative code of the city of New York, to study the feasibility and appropriateness of establishing a penalty mitigation program regarding any such violations issued to food service establishments or retail establishments;

b. Promulgate a rule authorizing the waiver of civil penalties for such violations based on a food service establishment or retail establishment’s participation in such penalty mitigation program, provided that the review required by subdivision a. of this section has concluded that such a program is feasible and appropriate; and

c. Submit to the mayor and the council a report summarizing the results of the review, which shall include, if the review concluded that a penalty mitigation program is not feasible and appropriate, an explanation for such conclusion; and, if the review concluded that a penalty mitigation program is feasible and appropriate, an explanation for the exclusion of certain violations from the rule.

§ 3. Within 2 years of the enactment of this section, the commissioner of consumer affairs shall:

a. Conduct a review of violations enforced by the department of consumer affairs, pursuant to title 20 of the administrative code of the city of New York, that (i) relate to the display of prices, the accuracy of scanners, or the posting of signage, or (ii) are commonly issued to food service establishments or retail establishments, excluding any violations authorized by chapters 8, 9, 10, 12 or 13 of such title, in order to study the feasibility and appropriateness of establishing a penalty mitigation program regarding any such violations issued to food service establishments or retail establishments;

b. Promulgate a rule authorizing the waiver of civil penalties for such violations based on a food service establishment or retail establishment’s participation in such penalty mitigation program, provided that the study required by subdivision a of this section has concluded that such a program is feasible and appropriate; and

c. Submit to the mayor and the council a report summarizing the results of the review, which shall include, if the review concluded that a penalty mitigation program is not feasible and appropriate, an explanation for such conclusion; and, if the review concluded that a penalty mitigation program is feasible and appropriate, an explanation for the exclusion of certain violations from the rule.

§ 4. This local law takes effect immediately.

ROBERT E. CORNEGY, Jr., Chairperson; MATHIEU EUGENE, PETER A. KOO, CARLOS MENCHACA, PAUL A. VALLONE, BILL PERKINS, ADRIENNE E. ADAMS; Committee on Small Business, December 18, 2017.

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 Transportation

Report for Int. No. 1397-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 restoration requirements after the opening of a protected street.

The Committee on Transportation, to which the annexed proposed amended local law was referred on December 6, 2016 (Minutes, page 4107), respectfully

REPORTS:

INTRODUCTION

On December 18, 2017, the Committee on Transportation, chaired by Council Member Ydanis Rodriguez, will hold a hearing on Proposed Int. No. 1397-A, a Local Law in relation to restoration requirements after the opening of a protected street and Proposed Int. No. 1658-A, a Local Law in relation to in relation to installation of bollards. This is the second hearing on these items. A hearing was held on these items on June 22, 2017 at which the Committee heard testimony from the New York City Department of Transportation (“DOT”) and other interested stakeholders.

BACKGROUND

Protected Streets

Underneath the surface of New York City’s streets lies a complex network of water pipes, natural gas lines, sewers, power lines and telecommunications infrastructure, all of which require maintenance and unforeseen repairs.¹ The repairs are typically done as a part of planned street reconstruction projects with funding allocated in the capital budget. These projects can range from milling and repaving to full reconstruction of the roadbed, sewer and water pipes. DOT also conducts street resurfacing projects that repair the surface of the roadway by replacing the top layer of asphalt pavement. Resurfacing includes remedies to potholes, bumps, and patches in the street.² According to DOT, resurfacing is a less expensive short-term method of maintaining the quality of existing streets and projects typically take less than one month to complete.³ After the completion of a street reconstruction project and a resurfacing project, these streets are designated “protected.” Under DOT rules, a protected street is a street segment or intersection that has been resurfaced or reconstructed within the last five years. These streets are “protected” because DOT prohibits any form of construction or “opening” of the street during this five-year period.⁴

In specific cases, DOT may find that emergency work must be authorized and a protected street can be opened. The request to open a protected street typically comes from a utility company or other government agency.⁵ Under the current law, in order to open a protected street during the five-year period, the entity requesting a permit must state the need for the work and a reason as to why such work was not completed during the capital reconstruction, and only then will DOT issue a permit.⁶

Street opening projects can be invasive and expensive. In 2014, Mayor Bill de Blasio convened an ‘Underground Infrastructure Working Group’ involving seven City agencies and utility companies in order to mitigate the disruptions that underground infrastructure projects cause.⁷ The working group’s goals involved short, medium and long-term solutions to improve emergency response times for underground street infrastructure repairs, improving street opening procedures, and improving the pace and schedule for upgrading and replacing the City’s underground infrastructure. The working group recommended offering incentives for private utilities to upgrade vulnerable infrastructure, especially leak prone gas lines.⁸ The

¹ Rueb, Emily, *New York 101: Why are the Streets always under construction?*, N.Y. TIMES, August 8, 2016, available at <https://www.nytimes.com/interactive/2016/08/18/nyregion/new-york-101-streets-repair-and-maintenance.html>

² N.Y.C. Department of Transportation, Infrastructure: Protected Street Listing, available at <http://www.nyc.gov/html/dot/html/infrastructure/protectedst.shtml> (last accessed June 14, 2017).

³ *Id.*

⁴ Rules of the City of New York, Title 34 Chapter 2 §2-01

⁵ *Id.* at 2.

⁶ N.Y.C. Administrative Code §19-144

⁷ New York City Underground Infrastructure Working Group (June 2014), available at https://www1.nyc.gov/assets/home/downloads/pdf/press-releases/2014/infrastructure_report.pdf

⁸ *Id.*

working group also determined that the City would work with private utility companies to develop a tracking tool to monitor the progress in reducing vulnerable infrastructure.⁹ Despite these recommendations situations arise that require unforeseen street openings and in some instances, protected streets need to be opened.

Overall, in 2015, DOT issued 223,271 permits to open streets, half of them to utility companies.¹⁰ DOT issued an additional 16,641 permits to open utility holes and 22,504 permits were issued for emergencies, mostly to Con Edison and for water and sewer repairs as well.¹¹ DOT keeps track of utilities and contractors to identify patterns of abuse and DOT inspectors will issue a summons if the incident was not a true emergency. In fiscal year 2015, DOT hired 34 additional inspectors to keep up with demand, for a total of 150 inspectors.¹² According to the Mayor's Management Report for fiscal year 2016, DOT surpassed its internal goal to resurface at least 1,200 lane miles as part of a \$1.6 billion investment to continue repaving roads over the next decade.¹³

Bollards

For centuries, in cities such as Rome and Amsterdam, bollards have been used to prevent, or at least discourage, vehicles from driving into areas where they do not belong.¹⁴ In the United States, modern bollards began proliferating after the 1995 Oklahoma City bombing as a security measure at federal facilities throughout the country.¹⁵ Today, security bollards have been installed at a wide variety of locations across New York City, including many office buildings, professional sports facilities, schools and other landmarks. As their use has become more widespread, planners and architects have deployed various strategies in order to accommodate aesthetic concerns, including using alternatives such as flower planters and reinforced benches to perform similar security functions while blending in more seamlessly with the rest of the built environment.¹⁶

On May 18, 2017, a driver plowed into pedestrians in the Times Square area, killing one person and injuring twenty others.¹⁷ The presence of bollards at the Times Square pedestrian plaza was credited with ultimately stopping the vehicle and preventing further casualties.¹⁸ Other recent incidents, such as the July 2016 attack in Nice, France, two attacks this year in London, and the attack on the Hudson River Greenway in Manhattan in October, illustrate the vulnerability of pedestrians to criminals and terrorists using vehicles as weapons. There have also been many instances of drivers injuring pedestrians on the sidewalk without intending to, whether due to intoxication, being distracted or careless, becoming medically incapacitated, or by accident.

ANALYSIS

Proposed Int. No. 1397-A

Section one of Proposed Int. No. 1397-A would renumber and amend section 19-144 of the Administrative Code. The amended section would state that when DOT issues a permit to open a street within five years after completion of city capital construction project requiring resurfacing or reconstruction of such street it may require restoration of pavement to the curb line on both sides of the restoration and parallel to the curb line for

⁹ *Id.*

¹⁰ *Id.* at 1.

¹¹ *Id.* at 1.

¹² *Id.*

¹³ N.Y.C. Mayor Bill de Blasio's Management Report, September 2016, available at http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2016/2016_mmr.pdf

¹⁴ Rybczynski, Witold, *The Blast-Proof City*, FOREIGN POLICY, Sept. 2, 2011, available at <http://foreignpolicy.com/2011/09/02/the-blast-proof-city/>

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Mueller, Benjamin, *In Times Square Attack, Bollards Stopped One Car. But What About the Next?*, N.Y. TIMES, May 23, 2017, available at https://www.nytimes.com/2017/05/23/nyregion/times-square-attack-bollards-planning.html?_r=0

¹⁸ *Id.*

20 feet on each side of such restoration. DOT would also have to impose at least one of the following requirements:

- All concrete-base roadways must be restored with concrete of the same depth and at least the same strength as the original base concrete,
- All cuts made to the roadway must be straight-edged and any angles must measure 90 degrees,
- Restoration of openings less than 10 feet apart must be restored as one continuous restoration, or
- If the distance between the edge of the cut and the curb is less than 3 feet the restoration must extend to the curb.

Section two of the legislation states that the local law would take effect immediately upon enactment.

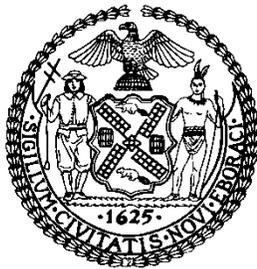
Proposed Int. No. 1658-A

Section one of Proposed Int. No. 1658-A would amend subchapter 3 of chapter 1 of title 19 of the Administrative Code by adding a new section 19-189.1. Subdivision a of the new section would define "bollard" to mean any raised concrete and/or metal post that is designed to slow or stop motor vehicles. Subdivision b of the new section would require DOT to submit to the Council a report by July 30, 2019, and every year thereafter, on the installation of bollards in the city, including the total number of locations under DOT's jurisdiction where bollards have been installed by DOT and the total number of such bollards installed in the 12-month period ending on June 30th of such year, as well as the total number of authorizations for bollard installation by third parties at locations under the jurisdiction of DOT issued during the 12-month period ending on June 30th of such year.

Section two of Proposed Int. No. 1658-A would impose the same requirements on the Parks Department as are imposed on DOT by section one of the legislation.

Section three of Proposed Int. No. 1658-A states that the local law would take effect immediately upon enactment.

(The following is the text of the Fiscal Impact Statement for Int. No. 1397-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT
PROPOSED INTRO. NO: Int. 1397-A
COMMITTEE: Transportation**

TITLE: A local law to amend the administrative code of the city of New York, in relation to restoration requirements after the opening of a protected street

SPONSORS: Council Members Matteo, Chin, Greenfield, Rose, Salamanca and Ulrich (by request of the Staten Island Borough President)

SUMMARY OF LEGISLATION: Proposed Intro. No. 1397-A would require that any restoration of pavement made subsequent to the opening of a protected street be subject to conditions that may be established by rule, including appropriate guarantees against the deterioration of the restored pavement and that may include the restoration of the pavement.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

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

IMPACT ON EXPENDITURES: It is estimated that this legislation would have no impact on expenditures since existing resources would be used by the Department of Transportation to comply with this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

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

ESTIMATE PREPARED BY: John Basile, Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Chima Obichere, Unit Head
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Intro. No. 1397 on December 6, 2016, and was referred to the Committee on Transportation (Committee). A hearing was held by the Committee on June 22, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1397-A, will be considered by the Committee on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1397-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

(For text of Int. No. 1658-A and its Fiscal Impact Statement, please see, respectively, the Report of the Committee on Transportation for Int. Nos. 1658-A printed in these Minutes; for text of Int. No. 1397-A, please see below)

Accordingly, this Committee recommends the adoption of Int. Nos. 1397-A and 1658-A.

(The following is the text of Int. No. 1397-A:)

Int. No. 1397-A

By Council Members Matteo, Chin, Greenfield, Rose, Salamanca, Cohen, Kallos, Vacca, Menchaca, Deutsch and Ulrich (by request of the Staten Island Borough President).

A Local Law to amend the administrative code of the city of New York, in relation to restoration requirements after the opening of a protected street

Be it enacted by the Council as follows:

Section 1. Section 19-144 of the administrative code of the city of New York, as renumbered and amended by local law number 104 for the year 1993, is amended to read as follows:

§ 19-144 Issuance of permit to open street within five years after completion of city capital construction project requiring resurfacing or reconstruction of such street.

a. All persons having or proposing to install facilities in, on or over any street shall be responsible for reviewing the city's capital budget, capital plan and capital commitment plan. Such persons shall make provision to do any work, except emergency work, which requires the opening or use of any street prior to or during the construction of any capital project requiring resurfacing or reconstruction proposed in such budget or plan for such street.

b. No permit to use or open any street, except for emergency work, shall be issued to any person within a five year period after the completion of the construction of a capital project set forth in such budget or plan relating to such street requiring resurfacing or reconstruction unless such person demonstrates that the need for the work could not have reasonably been anticipated prior to or during such construction.

c. Notwithstanding the [foregoing provision] *provisions set forth in subdivisions a and b of this section*, the commissioner [of transportation] may issue a permit to open a street within such five year period upon a finding of necessity therefor, subject to such conditions as the commissioner may establish by rule, which shall include appropriate guarantees against the deterioration of the restored pavement *and may include restoration of pavement to the curb line on both sides of the restoration and parallel to the curb line for 20 feet on each side of such restoration. Such conditions shall include, but are not limited to, the following requirements:*

1. *All concrete-base roadways must be restored with concrete of the same depth and at least the same strength as the original base concrete;*
2. *All cuts made to the roadway must be straight-edged and any angles must measure 90 degrees;*
3. *Restoration of openings less than 10 feet apart must be restored as one continuous restoration; or*
4. *If the distance between the edge of the cut and the curb is less than 3 feet the restoration must extend to the curb.*

§ 2. This local law takes effect immediately.

YDANIS A. RODRIGUEZ, *Chairperson*; DANIEL R. GARODNICK, JAMES VACCA, MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, CARLOS MENCHACA, DONOVAN J. RICHARDS; Committee on Transportation, December 18, 2017.
Other Council Members Attending: Council Members Koslowitz and Adams.

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. 1658-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 installation of bollards.

The Committee on Transportation, to which the annexed proposed amended local law was referred on June 21, 2017 (Minutes, page 2220), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Transportation for Int. No. 1397-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1658-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT
PROPOSED INTRO. NO: Int. 1658-A
COMMITTEE: Transportation**

TITLE: A local law to amend the administrative code of the city of New York, in relation to the installation of bollards

SPONSORS: Council Members Rodriguez, Cohen, Cabrera, Levin, Chin, Cornegy, Koslowitz, Reynoso, Koo, Van Bramer, Eugene, Dromm, the Public Advocate (Ms. James), Menchaca, Ulrich, Greenfield, Espinal, Constantinides, Vallone, Levine, Mendez, Rosenthal, Kallos, Johnson, Palma, Vacca, Gibson, Lancman, Rose, Salamanca, Treyger, Williams, Gentile, King, Torres, Miller, Mealy and Borelli

SUMMARY OF LEGISLATION: Proposed Intro. 1658-A would require the Department of Transportation (DOT) and the Department of Parks & Recreation (DPR) to each submit to the Council an annual report (with the first report due by July 30, 2019) on the number of bollards installed in the city and the number of locations at which such bollards have been installed, as well as the number of authorizations issued to third parties for bollard installation at locations under the jurisdiction of either DOT or DPR.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0
Net	\$0	\$0	\$0

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

IMPACT ON EXPENDITURES: It is estimated that this legislation would have no impact on expenditures since existing resources would be used by DOT and DPR to comply with this local law.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division
Mayor’s Office of Legislative Affairs

ESTIMATE PREPARED BY: John Basile, Financial Analyst

ESTIMATE REVIEWED BY: Nathan Toth, Deputy Director
Chima Obichere, Unit Head
Eric Bernstein, Counsel

LEGISLATIVE HISTORY: This legislation was introduced to the full Council as Intro. No. 1658 on June 21, 2017 and was referred to the Committee on Transportation (Committee). A hearing was held by the Committee on June 22, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended version, Proposed Intro. No. 1658-A, will be considered by the Committee on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. No. 1658-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 5, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1658-A:)

Int. No. 1658-A

By Council Members Rodriguez, Cohen, Cabrera, Levin, Chin, Cornegy, Koslowitz, Reynoso, Koo, Van Bramer, Eugene, Dromm, the Public Advocate (Ms. James), Menchaca, Ulrich, Greenfield, Espinal, Constantinides, Vallone, Levine, Mendez, Rosenthal, Kallos, Johnson, Palma, Vacca, Gibson, Lancman, Rose, Salamanca, Treyger, Williams, Gentile, King, Torres, Miller, Mealy, Garodnick and Borelli.

A Local Law to amend the administrative code of the city of New York, in relation to installation of bollards

Be it enacted by the Council as follows:

Section 1. Subchapter 3 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-189.1 to read as follows:

§ 19-189.1 *Installation of bollards. a. Definition. As used in this section, the term "bollard" means any raised concrete and/or metal post that is designed to slow or stop motor vehicles.*

b. By July 30, 2019, and every year thereafter, the commissioner shall submit to the council an annual report on the installation of bollards in the city. Such report shall include:

1. The total number of locations under the jurisdiction of the department where bollards have been installed by the department and the total number of such bollards installed in the 12-month period ending on June 30 of such year; and

2. The total number of authorizations for bollard installation by third parties at locations under the jurisdiction of the department issued during the 12-month period ending on June 30 of such year.

§ 2. Chapter 1 of title 18 of the administrative code of the city of New York is amended by adding a new section 18-155 to read as follows:

§ 18-155 *Installation of bollards. a. Definition. As used in this section, the term "bollard" means any raised concrete and/or metal post that is designed to slow or stop motor vehicles.*

b. By July 30, 2019, and every year thereafter, the commissioner shall submit to the council an annual report on the installation of bollards in the city. Such report shall include:

1. The total number of locations under the jurisdiction of the department where bollards have been installed by the department and the total number of such bollards installed in the 12-month period ending on June 30 of such year; and

2. *The total number of authorizations for bollard installation by third parties at locations under the jurisdiction of the department issued during the 12-month period ending on June 30 of such year.*

§ 3. This local law takes effect immediately.

YDANIS A. RODRIGUEZ, *Chairperson*; DANIEL R. GARODNICK, JAMES VACCA, MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, JAMES G. VAN BRAMER, DAVID G. GREENFIELD, CARLOS MENCHACA, DONOVAN J. RICHARDS; Committee on Transportation, December 18, 2017. *Other Council Members Attending: Council Members Koslowitz and Adams.*

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 Youth Services

Report for Int. No. 1619-A

Report of the Committee on Youth Services in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to runaway youth and homeless youth who have not accessed shelter services funded by the department of youth and community development.

The Committee on Youth Services, to which the annexed proposed amended local law was referred on May 24, 2017 (Minutes, page 1619), respectfully

REPORTS:

I. Introduction

On, December 18, 2017, the Committee on Youth Services, chaired by Council Member Mathieu Eugene, will hold a hearing on Proposed Int. 1619-A, in relation to runaway youth and homeless youth who have not accessed shelter services funded by the department of youth and community development and Proposed Int. 1705-A, in relation to runaway and homeless youth entering department of homeless services shelters. This will be the second hearing on the bills; the first hearing was held on September 28, 2017. At the hearing, representatives from the Department of Homeless Services (“DHS”), the Department of Youth and Community Development (“DYCD”), homeless youth, advocates, shelter providers, and other concerned members of the community testified. Amendments were made to the bill after the hearing.

II. Challenges Facing Runaway & Homeless Youth

Homeless youth account for one of the most vulnerable populations the New York City (“the City”) serves. There are many reasons that youth find themselves on the streets including family conflict, a lack of available affordable housing, and family poverty.¹ Youth run away from home for numerous reasons including violence, abuse or neglect at home, mental illness or substance abuse among family members, or challenges at

¹ “The RHY Impact Study” available at, <http://www.cduhr.org/wp-content/uploads/2017/09/White-Paper-RHY-IMPACT-2017-09-15.pdf>.

school.² Some youth endure rejection from their families because of their sexual orientation or gender identity, an unplanned pregnancy, drug or alcohol use, or the inability to comply with parent/caretaker rules.³ Youth who age out of foster care or are discharged from detention in juvenile or other justice facilities are also at a high risk for homelessness.⁴ Risk factors of homeless youth are compounded because they “age out” and are unable to access many services the City offers to youth who are age 21 years or younger.⁵

The street homeless youth population is a unique population that is inherently difficult to accurately capture. Since the City does not have an accurate accounting of the number of homeless youth on the streets, there is a gap between the resources currently available to homeless youth, and the actual need. However, the City has recently made efforts to improve how it tracks the number of homeless youth in the City, which will be discussed further. Furthermore, advocates have called upon the Administration to provide additional beds for the youth population and the City responded with a plan to add 100 beds a year over the span of three years to try and close the gap.⁶

In addition to a lack of available beds for youth, stakeholders note that there is also a lack of mental health services for homeless youth.⁷ Runaway and homeless youth (RHY) experience high rates of physical, emotional, and sexual abuse, as well as neglect, trauma, and chronic stress throughout their lives.⁸ Additionally, not only can poverty and unstable housing severely impact the mental health of RHY; the experience of living on the streets and being exposed to violence and exploitation can cause young people to experience high levels of trauma, exacerbate past trauma, and spur further psychological issues such as anxiety and depression.⁹ This trauma experienced by youth makes the search for stable and permanent housing even more difficult.¹⁰ Currently providers do not collect much information on the mental health needs of homeless youth, but mental health issues continue to impede homeless youth’s path to stable and permanent housing.¹¹

As mentioned above, homeless youth have a unique set of vulnerabilities that makes the path to permanency even more difficult than their older adult counterparts.¹² Many have not finished school or are trying to complete their education; many are disconnected from formal workforce settings, or are estranged from a parental support system and are forced to figure things out with little experience of the obligations of adulthood.¹³ Despite this increased vulnerability, youth are currently only allowed to stay in a DYCD Crisis Shelters for a maximum of 60 days.¹⁴

III. DYCD Runaway and Homeless Youth Shelters and Services

Shelters and other services for RHY are under the jurisdiction of DYCD. DYCD’s services for RHY are designed to protect and reunite RHY with their families when possible.¹⁵ These services include Transitional Independent Living (“TIL”) facilities, Crisis Shelters, and Drop-In Centers. DYCD’s shelter system is also complimented by it Street Outreach teams and referral services.¹⁶ DYCD also offers specialized programming

² “The Department of Youth and Community Development Residential and Non-Residential Runaway and Homeless Youth Services Concept Paper” September 18, 2017, *available at*, https://www1.nyc.gov/assets/dycd/downloads/pdf/concept_papers/FY2018_RHY_Concept_Paper.pdf. (hereinafter “DYCD Concept Paper”).

³ *Id.*

⁴ *Id.*

⁵ DYCD, Runaway and Homeless Youth, *available at*, <http://www1.nyc.gov/site/dycd/services/runaway-homeless-youth.page>.

⁶ The City of New York, “Turning the Tide on Homelessness in New York City” (Feb. 23, 2017) *available at* <http://www1.nyc.gov/assets/dhs/downloads/pdf/turning-the-tide-on-homelessness.pdf> (hereinafter “Turning the Tide report”).

⁷ RHY Impact Study, *supra* note 1 at 60.

⁸ *Id.*

⁹ *Id.*

¹⁰ “Homeless Young Adults Can Fall through a Crack in Shelter System” February 3, 2016, *available at*, <https://citylimits.org/2016/02/03/homeless-young-adults-can-fall-through-a-crack-in-shelter-system/>

¹¹ RHY Impact Study, *supra* note 1.

¹² Homeless Young Adults Can Fall through a Crack in Shelter System, *supra* note 10.

¹³ *Id.*

¹⁴ NY Exec. L § 532-b.

¹⁵ DYCD, Runaway and Homeless Youth, *supra* note 5.

¹⁶ *Id.*

for RHY who are either pregnant or parenting, sexually exploited, and Lesbian, Gay, Bisexual, Transgender and Questioning (“LGBTQ”) youth.¹⁷

TIL facilities serve youth between the ages of 16 and 21.¹⁸ Currently, youth can live in a TIL facility for 18 months or beyond the 18-month time limit if the youth is not yet 18 when the time limit is reached.¹⁹ All TIL programs are open 24 hours a day, 365 days a year.²⁰ TIL programs offer youth services such as vocational training, educational programs, counseling, basic life skills training, and educational programs.²¹ For fiscal year (FY) 2017, the number of RHY served in TIL programs increased by 27 percent, going up from 519 in FY 2016 to 659 in FY 2017.²²

DYCD’s Crisis Shelters offer short-term emergency shelter and crisis intervention services aimed at reuniting youth with their families, or where family reunification is not possible, arranging appropriate transitional and long-term placements.²³ Crisis Shelters serve youth up to the age of 21.²⁴ Currently, runaway youth may spend 30 days, or 60 days with the consent of a parent or guardian, in a crisis shelter.²⁵ This timeframe is a quick turn around for youth to organize and figure out their lives out and leaves many youth having to reapply for another stay at a crisis shelter or they end up back on the streets.²⁶ For FY 2017, 2,340 youth were served in Crisis Shelters, an 8.5 percent decrease from FY 2016 where 2,539 youth were served.²⁷

Drop-In Centers provide emergency intervention services for youth not older than 24 years of age and their families.²⁸ Drop-In Centers are located in each of the five boroughs and provide necessary items such as immediate shelter, food, and clothing, and services such as counseling, support, and referrals to relevant services.²⁹ Three Drop-In Centers are located Manhattan, Queens, Brooklyn, Bronx, and Staten Island each have one drop-in center.³⁰ Such centers are open six days a week.³¹ Although youth ages 21-24 may utilize drop-in centers, which can connect them to services, such facilities do not provide them with the temporary emergency housing that they often need.³² Outreach programs, like the Ali Forney Center, can help older youth find housing, but it can take up to 6 months to a year to find a bed.³³

RHY Outreach Efforts

DYCD also conducts outreach efforts to RHY through its Street Outreach teams who develop a rapport with RHY and inform them about the services available through DYCD.³⁴ The Street Outreach teams are also responsible for referring RHY to other service providers, transporting them to crisis shelters, a safe location, or back to their homes or to relatives.³⁵ Safe Horizon’s Streetwork Project is the contracted provider responsible for conducting the street outreach to RHY.³⁶ The Street Outreach teams focus on areas such as subway stations

¹⁷ *Id.*

¹⁸ DYCD, Transitional Independent Living, available at, <http://www1.nyc.gov/site/dycd/services/runaway-homeless-youth/transitional-independent-living.page> (last accessed Sept. 20, 2017).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Fiscal 2017 Mayor’s Management Report, (Sept. 2017), 237, available at, http://www1.nyc.gov/assets/operations/downloads/pdf/mmr2017/2017_mmr.pdf (hereinafter “FY 17 MMR”).

²³ DYCD, Crisis Shelters, available at, <http://www1.nyc.gov/site/dycd/services/runaway-homeless-youth/crisis-shelters.page> (last accessed Sept. 20, 2017).

²⁴ *Id.*

²⁵ NY Exec. L § 532-b.

²⁶ Homeless Young Adults Can Fall through a Crack in Shelter System, *supra* note 10.

²⁷ FY 17 MMR, *supra* note 22.

²⁸ DYCD, Borough Based Drop in Shelters, available at, <http://www1.nyc.gov/site/dycd/services/runaway-homeless-youth/borough-based-drop-in-centers.page> (last accessed Sept. 20, 2017).

²⁹ *Id.*

³⁰ [Local Law 23 of 2013: 2016 Annual Report, page 9.](#)

³¹ *Id.*

³² *Id.*

³³ “Unplugged: Tackling Youth Homelessness,” available at, <https://www.robinhood.org/unplugged-tackling-youth-homelessness/>.

³⁴ DYCD, Street Outreach, available at, <http://www1.nyc.gov/site/dycd/services/runaway-homeless-youth/street-outreach.page> (last accessed Sept. 20, 2017).

³⁵ *Id.*

³⁶ [Local Law 23 of 2013: 2016 Annual Report, page 9-10.](#)

and transportation hubs where RHY are known to congregate.³⁷ The Street Outreach teams are an important component of DYCD's RHY program because they serve as an entry point for youth into DYCD's RHY system.³⁸

Enhanced Services for RHY

In early 2016, as part of his comprehensive review and restructuring of the services provided to homeless individuals and families, Mayor Bill de Blasio announced that his Administration would be adding 300 beds to the RHY over the next three years.³⁹ In addition to the beds, more staff will be deployed to coordinate services for youth entering shelters under the purview of DHS.⁴⁰ In all, the de Blasio Administration would have added an additional 500 beds for RHY, bringing that total to 753 beds by FY 2019.⁴¹ From FY 14 to FY 17, the number of certified residential RHY beds has increased from 329 to 465.⁴²

On September 18, 2017, DYCD released a Concept Paper as a precursor to two forthcoming Requests for Proposals (RFP) in response to Mayor Bill de Blasio's funding and policy changes that would enable DYCD to significantly expand Crisis Shelters, TIL programs, and Drop-In Centers.⁴³ The expansion of services will also include specific services to RHY who identify as LGBTQ, who are over-represented in the RHY population as previously mentioned.⁴⁴ Supplemental funding from ThriveNYC will also allow DYCD to better address RHY with mental health needs.⁴⁵

The RFP also stated that providers will be able to allow youth to stay in TIL programs for up to 24 months under forthcoming regulations by the Office of Children and Family Services (OCFS) pursuant to recent changes in New York Executive Law, which will be discussed in further detail below.⁴⁶ In addition to youth ages 16-20, under the new RFP, TIL programs will be able to serve youth ages 21-24, but with DYCD's permission "subject to the availability of additional resources and changes in the OCFS's regulations."⁴⁷ Programs with Crisis Shelters will also be able to serve youth ages 21-24 with permission from DYCD, subject to the availability of additional resources and changes in the OCFS's regulations.⁴⁸ The regulations also allow youth to remain in crisis shelters for up to 120 days.⁴⁹

New York City Youth Count

Every year, New York City conducts a point-in-time ("PIT") count of homeless adults, families, and youth based on the United States Department of Housing and Urban Development ("HUD").⁵⁰ However, a supplemental youth count focusing specifically on unsheltered youth was initiated by City agencies, RHY service providers, and advocates because the Homeless Outreach Population Estimate ("HOPE") count was not accurately capturing unsheltered youth because unsheltered youth exhibit different characteristics than older

³⁷ *Id.*

³⁸ *Id.*

³⁹ Office of the Mayor, Mayor de Blasio, DYCD Commissioner Chong, and HRA Commissioner Banks Announce Enhanced Services to Address Youth Homelessness, January 2016, *available at*, <http://www1.nyc.gov/office-of-the-mayor/news/032-16/mayor-de-blasio-dycd-commissioner-chong-hra-commissioner-banks-enhanced-services-to/#/0>

⁴⁰ *Id.*

⁴¹ Department of Youth and Community Development, 2016 Annual Report, 16, *available at*, https://www1.nyc.gov/assets/dycd/downloads/pdf/2016_Annual_Report_DYCD_Final.pdf

⁴² FY 17 MMR, *supra* note 22.

⁴³ DYCD Concept Paper, *supra* note 2.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ New York City Youth Count Report 2016, *available at*, http://www1.nyc.gov/assets/cidi/downloads/pdfs/youth_count_report_2016.pdf.

adults experiencing homelessness.⁵¹ For example, homeless youth tend to congregate in different places than older adults or may have different survival methods than older adults.⁵² Additionally, homeless youth may try to remain out of sight during the time the homeless count is taking place.⁵³

Understanding the characteristics of youth homelessness is particularly important because it allows the City to improve programs and policies targeting this population to better address their specific needs.⁵⁴ For example, basic demographic information such as gender, age, and sexual orientation can influence the types of additional programming that should be implemented or redesigned.⁵⁵ Even information highlighting a youth's history of homelessness, including the type of places stayed and the length of time they have been homeless, helps to formulate and establish better methods of prevention and intervention points of service.⁵⁶

The 2016 PIT count attempted to improve the accuracy of the 2015 PIT count by targeting more locations, conducting extensive outreach to community partners, and integrating youth participation in the planning process.⁵⁷ Some of the new sites that were targeted included drop-in centers, libraries, and other community-based services.⁵⁸ Additionally, communication about the count was extended to community boards, Borough Presidents' Offices, public recreation centers, community programs, and other City agencies.⁵⁹ The data was collected through outreach or through programs that youth, aged 24 and under, contacted.⁶⁰ As a result of those efforts, 388 more youth were counted in 2016 than in 2015, as shown in the chart below:⁶¹

⁵¹ *Id.*; HUD defines an unsheltered youth as an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground. This means youth who couch surf, exchange sex for shelter, are in institutions such as jail or hospitals or in shelters/drop-in centers do not count toward the unsheltered totals submitted to HUD. However, information about these youth was collected in the supplemental youth count.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.* at 4.

⁵⁶ *Id.*

⁵⁷ 2016 NYC Youth Count Report, *supra* note 50 at 3.

⁵⁸ *Id.* at 7.

⁵⁹ *Id.* at 6.

⁶⁰ *Id.* at 5, for table reference, see page 8.

⁶¹ *Id.* at 8.

Overall Comparison of Youth 24 and Under		<u>PIT Numbers</u>	
		2015	2016
Unaccompanied Youth	1,706	1,805	
Sheltered	1,518	1,653	
Unsheltered	188	152	
Parenting Youth	2,114	2,261	
Sheltered	2,114	2,261	
Unsheltered	0	0	
Children with Parenting Youth	2,539	2,681	
Sheltered	2,539	2,681	
Unsheltered	0	0	
Total	6,359	6,747	
Sheltered	6,171	6,595	
Unsheltered	188	152	

The 2016 Youth Count Data also found 1,148 youth were in other unstable living situations⁶² as well as 884 youth in stable living situations.⁶³ Although neither of these figures are included in the HUD PIT numbers, they are reported to “present information on a broader spectrum of unstably housed youth.⁶⁴ The number of youth living in other unstable living situations increased by 359 from the 2015 Youth Count where 789 youth were counted.⁶⁵ Therefore, the 2016 Youth Count was able to capture a wider swath of homeless youth. However, street homeless youth also tend to hang out in 24-hour businesses where they are able to pose as customers, charge their phones, and enjoy a safe and temperature-controlled environment in the middle of the night.⁶⁶ These 24-hour businesses are not subject to current PIT Count methodologies, and therefore, there may be even more homeless youth who are left unaccounted for.⁶⁷

IV. Recent Changes to State Executive Law Article 19-H – “Runaway and Homeless Youth Act”

Article 19-H of the State Executive Law, otherwise known as the Runaway and Homeless Youth Act (“RHYA”), outlines services provided to RHY, along with the plan municipalities must submit describing its RHY services in order to qualify for State reimbursement.⁶⁸ Recently, through the FY 2018 State budget, the

⁶² *Id.* at 9. Some of the unstable living situations include hospital/mental health facilities, hotel/motel, couch surfing, shelter/drop-in centers/transitional living centers/church, prison, sex for shelter, forced sex for shelter/trafficked, boyfriend/girlfriend’s place (due to lack of stable housing).

⁶³ *Id.* at 9. Some of the stable living situations include parent’s apartment, own apartment/room/dorm, other relative’s apartment, friend’s place (for social reasons), boyfriend/girlfriend’s place (for social reasons) due to lack of stable housing, etc.

⁶⁴ *Id.* at 16.

⁶⁵ 2015 NYC Youth Count Report, (Sept. 2015) available at http://www1.nyc.gov/assets/cidi/downloads/pdfs/youth_count_report_2015.pdf

⁶⁶ “Annual Street Homeless Count Shows 40 Percent Increase Over 2016,” July 5, 2017, available at http://gothamist.com/2017/07/05/homeless_count_2017.php

⁶⁷ *Id.*

⁶⁸ NY Exec L. § 420.

RHYA was amended to allow localities several options to provide additional services to the RHY population, if such options are provided for in the municipality's plan. The law will take effect January 1, 2018 and include the following changes:

- RHY shelters may serve “homeless young adults,” which is defined as youth 21-24.
- The amount of time youth may remain in a crisis shelter or TIL facility was extended as follows:
 - A runaway youth aged 14 or older receiving shelter services in a residential crisis services program may remain in the program for up to 60 days, or up to 120 days if the runaway youth and the youth's parent, guardian or custodian agree in writing that the youth may remain in the program. Youth may remain beyond that time limit if OCFS is notified in writing within 60 days.
 - A homeless youth receiving shelter services at a TIL facility may remain the program for up to 24 months, or beyond 24 months limit if the homeless youth entered the TIL facility before turning 21 and the OCFS is notified in writing within 60 days.

V. The Department of Homeless Services Shelter System

The City operates under a unique legal mandate which requires a “right to shelter” to homeless individuals. In order to meet its legal obligation, the majority of the City's shelters are operated by not-for-profit providers under contract with DHS.⁶⁹ The agency also enters into non-contractual arrangements with private landlords and commercial hotels.⁷⁰ The DHS shelter system includes “273 shelter programs that span 647 buildings across all five boroughs, including more than 350 cluster buildings⁷¹ and hotels.”⁷² DHS operates shelters for single adults,⁷³ families with children⁷⁴ and adult families.⁷⁵ Single adults may be placed in either a men's or women's shelter or in safe havens.⁷⁶ The City continues to face record levels of homelessness. Data from DHS shows that for the night of September 21, 2017, there were a total of 60,116 individuals in the shelter system,⁷⁷ including 40,516 individuals living in shelters for families with children,⁷⁸ 5,346 individuals in adult family shelters,⁷⁹ and 14,254 in single adult shelters.⁸⁰ According to DHS, the system typically operates with a nightly vacancy rate of less than one percent.⁸¹

⁶⁹ LL 19 of 1999 Transitional Inventory Report for 2015 (Oct. 2015), report on file with Committee staff, (hereinafter LL 19 Report). 10 shelters are operated directly by DHS.

⁷⁰ *Id.*

⁷¹ Cluster buildings are private buildings with apartments where homeless families and lease-holding tenants reside.

⁷² Turning the Tide report, *supra* note 6.

⁷³ DHS considers a single adult to be any man or woman over the age of 18 who seeks shelter independently, without being accompanied by other adults or minors. See DHS, Single Adults, available at <http://www1.nyc.gov/site/dhs/shelter/singleadults/single-adults.page> (last accessed Sept. 20, 2017).

⁷⁴ DHS considers families with children to be the following households: families with children younger than 21 years of age, pregnant women and families with a pregnant woman. See DHS, Families, available at <http://www1.nyc.gov/site/dhs/shelter/families/families-with-children.page> (last accessed Sept. 20, 2017).

⁷⁵ DHS considers an adult family to be any family without minor children, including the following household compositions: applicants who are a legally married couple and present a valid original marriage certificate; or applicants who are a domestic partners couple and present a valid original domestic partnership certificate; or adults who provide, as part of their application for Temporary Housing Assistance, proof establishing the medical dependence of one applicant upon another; and two or more adults who can provide birth certificates to prove a parent and child or sibling family relationship or share a “caretaking” (emotionally or physically supportive) relationship. See DHS, Adult Families, available at <http://www1.nyc.gov/site/dhs/shelter/families/adult-families.page> (last accessed Sept. 20, 2017).

⁷⁶ According to the U.S. Department of Housing and Urban Development (HUD), a Safe Haven is defined as a form of supportive housing that serves hard-to-reach homeless persons with severe mental illness who come primarily from the streets and have been unable or unwilling to participate in housing or supportive services. See

https://www.hudexchange.info/resources/documents/SafeHavenFactSheet_CoCProgram.PDF

⁷⁷ Department of Homeless Services, Daily Report: 9/22/17 (Data from Thursday, September 21, 2017), available at <http://www1.nyc.gov/assets/dhs/downloads/pdf/dailyreport.pdf> (hereinafter DHS Daily Report), last accessed Sept. 25, 2017.

⁷⁸ *Id.*

⁷⁹ *Id.*

Young people aged 18 and older may enter the DHS shelter system when they age or time out of a DYCD RHY crisis shelter or a TIL facility, or when they are unable to access these facilities because they were at capacity.⁸² If the young person is pregnant or a custodial parent, he or she will enter the DHS shelter system as a family with children⁸³ and must go to the Prevention Assistance and Temporary Housing (“PATH”) center in the Bronx for intake and an eligibility determination. Those entering as a single individual must go to one of the three intake centers for single adults.

In December 2015, the Administration announced that it would conduct a review of DHS and the City’s homeless programs, and issue recommendations by early 2016 regarding both the structure of the agency and ways to address the City’s increase in homelessness.⁸⁴ In April 2016, the Administration announced the results of its review, which included structural changes to DHS and 46 reforms.⁸⁵ With regard to homeless youth and the DYCD system, the 90-day review included the following four recommendations:

- Target services and rental assistance for youth in DYCD shelters: Eligibility criteria for the City’s rental assistance programs will be expanded to include youth living in DYCD youth shelters at risk of entering DHS shelters.⁸⁶
- Triple the number of DYCD RHY shelter capacity: One-hundred additional beds will be added each year for the following three years, bringing the total system capacity to 750 by FY 2019.⁸⁷
- Streamline access to DYCD shelter for homeless youth: City staff will be deployed at the entry points of the DHS shelter system to offer youth beds for individuals between the ages of 16 and 21. The plan to triple the number of youth beds is a critical element of this reform.⁸⁸
- Targeting services for emerging new trends in the single adult population (persons 50 or older and 18 to 24).⁸⁹

DHS Youth Shelters

DHS currently has three shelters that solely house young adults – Turning Point, CREATE Young Adult Residences, and Marsha’s House. Turning Point is a 37-bed transitional housing facility for homeless young women between the ages 18 and 25.⁹⁰ CREATE Young Adult Residences serves 50 homeless young males ages 18 to 25. Marsha’s House,⁹¹ a new homeless shelter for LGBTQ young adults ages 21 to 29, opened in the Bronx in February 2017, and is the first DHS shelter in the City to work specifically with this population.⁹²

⁸⁰ *Id.*

⁸¹ Testimony of the Dept. of Homeless Services before the Committees on General Welfare and Education, Oversight: “DOE’s Support for Students who are Homeless or in Temporary Housing” (Feb. 4, 2016) *available at* <http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=457433&GUID=A07AE076-5822-4D3D-9772-9659AA782511&Options=info&Search=9659AA782511>

⁸² In FY 17, Crisis beds and TIL programs were at 92% and 93% utilization rates, respectively. FY 17 MMR, *supra* note 22.

⁸³ For young people in the DYCD RHY system, Covenant House has a program specifically for pregnant young people and young people with children.

⁸⁴ Press Release, NYC Office of the Mayor, “City Announces Comprehensive Review of Homeless Service Agencies and Programs” (Dec. 14, 2015), *available at* <http://www1.nyc.gov/office-of-the-mayor/news/939-15/city-comprehensive-review-homeless-service-agencies-programs>.

⁸⁵ Review of Homeless Services Agencies and Programs (April 11, 2016) *available at* <http://www1.nyc.gov/assets/home/downloads/pdf/reports/2016/90-day-homeless-services-review.pdf> (hereinafter 90-Day Review).

⁸⁶ *Id.* Recommendation #7, p. 11.

⁸⁷ *Id.* Recommendation #31, p. 14.

⁸⁸ *Id.* Recommendation #30, p. 14.

⁸⁹ *Id.* Recommendation #26, p. 14.

⁹⁰ Turning Point Brooklyn *available at* <http://www.tpbk.org/shelter-for-young-women.html>

⁹¹ Jorgensen, J., “EXCLUSIVE: New York City opens 5 homeless shelters under de Blasio plan that calls for adding 85 more,” NEW YORK DAILY NEWS (May 26, 2017) *available at* <http://www.nydailynews.com/new-york/new-york-city-quickly-opens-5-homeless-shelters-article-1.3196885>

⁹²Turning the Tide report, *supra* note 6.

This location has the capacity to shelter 80 homeless New Yorkers.⁹³ The de Blasio administration worked to develop this new shelter model in response to feedback from nonprofit service providers and advocates who identified the need to provide specialized services and support to homeless LGBTQ young adults.⁹⁴ Services are tailored to the specific needs of this community and include the following:⁹⁵

- Group counseling led by staff and peers;
- “Seeking Safety” workshops led by trauma-informed clinical staff members;
- An Entitlement Coordinator who is specifically trained on LGBTQ issues, with a focus on health benefits and documentation changes (especially needed for individuals who identify as transgender);
- A partnership with Callen Lorde Bronx for medical services, including HIV care and transgender services;
- Education referrals; and
- Onsite psychiatrist who will provide psychiatric care, assessment and intervention.

Furthermore, on September 19, 2017, First Lady Chirlane McCray launched the [NYC Unity Project](#), the City’s first-ever, multi-agency strategy to deliver unique services to LGBTQ youth, including a new 24-hour drop-in center in Jamaica, Queens that will open in October 2017.⁹⁶

Shelter Safety and Security

Although homeless youth have access to the DHS shelter system, many advocates report that young people feel unsafe going into the DHS single adult system.⁹⁷ Many youth who find shelter in the DHS system are subjected to bullying and harassment from older adult residents, making the experience even more traumatizing.⁹⁸ LGBTQ-identifying youth, who are said to make up as much as 40 percent of the homeless youth population, also endure frequent instances of bullying and harassment in the adult DHS system.⁹⁹ To avoid this harassment, youth often take to the streets and try to make it on their own.¹⁰⁰

In recent years, there have been several news reports of violence occurring in the DHS shelter system, including single adult shelters and hotels. According to DHS, the agency “remains committed to meeting its legal mandate to provide temporary emergency shelter to those experiencing homelessness in a safe and respectful environment.”¹⁰¹ In fact, one of DHS’ critical objectives is “to maintain shelter safety and sanitation.”¹⁰² Based on findings from the 90-day review, new measures have been implemented to reduce violence in homeless shelters, which include a more comprehensive and accurate reporting of critical incidents in shelters, re-training of DHS staff by the New York City Police Department (“NYPD”), and implementing

⁹³ Press Release, NYC Department of Homeless Services, “NYC Department of Homeless Services and Council Member Ritchie Torres Announce Opening of New Homeless Shelter for LGBTQ Community,” (Nov. 18, 2016), available at <https://www1.nyc.gov/site/dhs/about/press-releases/lgbtq-shelter-announcement-release.page>

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Press Release, NYC Office of the Mayor, “First Lady Chirlane McCray Launches NYC Unity Project, First Ever Citywide Commitment to Support LGBTQ Youth,” (Sept. 19, 2017) available at <http://www1.nyc.gov/office-of-the-mayor/news/596-17/first-lady-chirlane-mccray-launches-nyc-unity-project-first-ever-citywide-commitment-support>

⁹⁷ See Navvaro, Mireya, “Housing Homeless Youth Poses Challenges for Mayor de Blasio,” *The New York Times* (March 27, 2015) available at <http://www.nytimes.com/2015/03/28/nyregion/housing-homeless-youth-poses-challenge-for-mayor-de-blasio.html>; Stewart, Nikita, “Homeless Young People of New York, Overlooked and Underserved,” *The New York Times* (Feb. 5, 2016) available at <http://www.nytimes.com/2016/02/06/nyregion/young-and-homeless-in-new-york-overlooked-and-underserved.html>.

⁹⁸ “Helping the Homeless Ages 21 to 24,” April 28, 2017, available at, <https://voicesofny.org/2017/04/helping-the-homeless-ages-21-to-24/>

⁹⁹ “Homeless LGBTQ struggle to escape harassment at shelters,” June 29, 2017, available at, <https://thinkprogress.org/homeless-lgbtq-youth-a0f35cab620e/>

¹⁰⁰ *Id.*

¹⁰¹ NYC Department of Homeless Services, “About DHS” available at <http://www1.nyc.gov/site/dhs/about/inside-dhs.page>,

¹⁰² *Id.*

new domestic violence services for shelter residents.¹⁰³ As part of the 90-day review, security has also increased at mental health shelters and at commercial hotels.¹⁰⁴

In January 2017, the Administration announced that 22 NYPD personnel will be working with DHS to help oversee management of security at DHS shelters, and that under the direction of the NYPD management team, DHS security personnel, including DHS Peace Officers, have received and will continue to receive enhanced training from the NYPD on various security-related topics.¹⁰⁵ Going forward, the NYPD will provide Peace Officer certification and in-service training for all DHS Peace Officers and supervisors.¹⁰⁶ The NYPD has already trained more than 700 Peace Officers.¹⁰⁷ Since the NYPD Management Team began working with DHS, other measures that have already been put in place include:¹⁰⁸

- Implementing a crime prevention reporting system, a daily risk assessment report, and a sex offender monitoring system.
- Creating an assessment instrument for staffing deployment at shelter facilities.
- Instituting procedures for conducting searches in shelters.

The de Blasio Administration has substantially increased spending for security at homeless shelters. City funding for DHS Peace Officers and Family Justice Center (FJC) security guards increased by 63% from \$48 million in FY 2013 to \$78 million in FY 2016.¹⁰⁹ DHS has added \$20 million in FY 2017 and in the outyears to enhance security at homeless shelters.¹¹⁰ The total budget for shelter security is \$217 million in FY 2018 and in the outyears.¹¹¹ The number of DHS Peace Officers will increase from 548 in May 2016¹¹² to 940 by 2018.¹¹³ In addition to the funding added in DHS' budget for shelter security, \$5.7 million in baseline funding was added to NYPD's budget for 47 positions, 42 uniform and five civilian positions, beginning in FY 2018 to oversee the management of security at homeless shelters, and to provide new recruit and in-service training to all DHS Peace Officers.¹¹⁴

The NYPD management team has also put enhanced supervisory procedures in place for the 1,400 FJC-contracted security guards at various shelters at which there is not current DHS Peace Officer staffing.¹¹⁵ Additional DHS Peace Officer staffing will be phased in at additional shelter locations.¹¹⁶ In addition, when the City needs to open a new shelter, the new site will have a security assessment completed by the NYPD and, when appropriate and necessary, will include community engagement staff to troubleshoot any problems as they arise.¹¹⁷

¹⁰³ Press Release, Office of the Mayor, March 15, 2016, "DE BLASIO ADMINISTRATION ANNOUNCES NEW MEASURES TO IMPROVE SAFETY IN HOMELESS SHELTERS," available at <http://www1.nyc.gov/assets/dhs/downloads/pdf/press-releases/new-measures-safety-shelters-press-release.pdf>

¹⁰⁴ *Id.*

¹⁰⁵ Press Release, Department of Homeless Services, "NYPD MANAGEMENT TEAM TO ASSIST DHS WITH MANAGEMENT OF SECURITY IN HOMELESS SHELTERS," (Jan. 6, 2017) available at <https://www1.nyc.gov/site/dhs/about/press-releases/nypd-dhs-security-release.page>.

¹⁰⁶ *Id.*

¹⁰⁷ See Committee Report to the Committee on Finance and the Committee on General Welfare on the Fiscal 2018 Executive Budget, Department of Homeless Services (May 17, 2017) at 6 available at <http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=545502&GUID=A9FE222B-FBD8-46A6-B275-9379E4BF8D26&Options=info&Search> (hereinafter "DHS Fiscal 2018 Executive Budget Report").

¹⁰⁸ *Supra* note 105.

¹⁰⁹ Testimony of Steven Banks, Commissioner of HRA/DHS, before the New York City Council General Welfare Committee FY 2017 Preliminary Budget Hearing on March 15, 2016 at 5 (hereinafter "FY 2017 Preliminary Budget Hearing Testimony") available at <http://legistar.council.nyc.gov/MeetingDetail.aspx?ID=458065&GUID=C857AABB-1AAC-4462-866D-AA36D439552F&Options=info&Search=>.

¹¹⁰ DHS Fiscal 2018 Executive Budget Report, *supra* note 107.

¹¹¹ *Id.*

¹¹² *Supra* note 105.

¹¹³ DHS Fiscal 2018 Executive Budget Report, *supra* note 107.

¹¹⁴ *Id.*

¹¹⁵ *Supra* note 105.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

NYC Safe

In August 2015, Mayor de Blasio announced the launch of “NYC Safe,” an evidence-driven program to support New Yorkers with untreated serious mental illness who pose a concern for violent behavior.¹¹⁸ NYC Safe changes the way the City intervenes to stop and respond to violence committed by the mentally ill by establishing a centralized oversight body that coordinates public safety and public health.¹¹⁹ With NYC Safe, the City can respond more rapidly and appropriately to prevent violence and more assertively when it happens.¹²⁰ Since the launch of NYC Safe, DHS has increased security at 11 single adult mental health shelters and enhanced security at 12 of the adult shelters considered high needs.¹²¹ This includes \$10.5 million in FY2016 to hire 175 staff and \$7.4 million in FY2017 added in the January Plan.¹²² Subsequent to this program and in the wake of several recent tragedies, additional security measures were put in place.¹²³ DHS added more mental health professionals to increase safety at shelters and support homeless individuals with mental health needs. For example, the City:¹²⁴

- Implemented a 24/7 communication process between NYC Health + Hospitals and DHS ensuring better case management and allowing shelter operators to better support clients;
- Deployed new mental health teams to DHS shelter intake centers;
- Completed a security assessment of all 29 mental health shelters;
- Deployed additional peace officers to provide 24/7 coverage at all mental health shelters; and
- Deployed DHS contracted security guards to provide additional security at commercial hotels used by DHS.

VI. Supportive Housing

The Supportive Housing Model

Supportive housing is a form of affordable housing that offers residents access to on-site support, including primary care, psychiatric care, and overall holistic care in order to help chronically homeless individuals and families remain stably housed. Services in supportive housing vary depend on the needs of the population, but may include mental and medical health care, vocational and employment services, child care, independent living skills training and substance abuse counseling.¹²⁵ Supportive housing is designed “primarily for people with long histories of homelessness due to persistent obstacles like serious mental illness, substance use disorders, or chronic medical conditions.”¹²⁶ Today, more than 32,000 supportive housing units exist in New York City.¹²⁷ Supportive housing is considered to be the most successful existing model for ending homelessness among vulnerable populations.¹²⁸

Much of the existing supportive housing in New York City has been developed through a series of joint collaborations between New York State and City known as the NY/NY agreements.¹²⁹ The first NY/NY

¹¹⁸ Press Release, Office of the Mayor, “Mayor de Blasio Announces “NYC Safe,” An Evidence-Driven Public Safety And Public Health Program That Will Help Prevent Violence,” (Aug. 6, 2015) available at <http://www1.nyc.gov/office-of-the-mayor/news/540-15/mayor-de-blasio-nyc-safe-evidence-driven-public-safety-public-health-program>

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² FY 2017 Preliminary Budget Hearing Testimony, *supra*, note 109.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ Supportive Housing Network of New York, Frequently Asked Questions available at <http://shnny.org/learn-more/faq/> (hereinafter “FAQ”).

¹²⁶ Corporation for Supportive Housing (CSH), Real Supportive Housing Need in New York State, A Statewide Supportive Housing Needs Assessment Based on data collected & evaluated by CSH, available at http://www.csh.org/wp-content/uploads/2015/10/Final_Real-SH-Need-in-NYS.pdf (hereinafter “CSH Report”).

¹²⁷ Supportive Housing Network of New York, New York City, available at <http://shnny.org/budget-policy/nyc/>

¹²⁸ FAQ, *supra* note 125.

¹²⁹ Supportive Housing Network of New York, The New York/New York Agreements I, II and III, available at <http://shnny.org/budget-policy/nyc/ny-ny/>

agreement was signed in 1990,¹³⁰ and NY/NY II was signed in 1999.¹³¹ The third NY/NY III agreement was signed in 2005, and expanded its services to individuals and families with mental illnesses, including young adults ages 18 to 25, substance abuse disorders, disabling medical conditions, and youth aging out of foster care who are at risk of homelessness, among other eligible groups.

Currently, over 300 organizations have endorsed a platform, titled the “Campaign 4 NY/NY Housing”, to advocate for a NY/NY IV agreement between Mayor Bill de Blasio and Governor Andrew Cuomo. The campaign primarily calls for the City and State to create 30,000 units of supportive housing in New York City.¹³² However, at this time, there is no new agreement between the City and State for supportive housing. Nonetheless, Mayor de Blasio and Governor Cuomo each proposed separate proposals for the creation of new supportive housing units.

In November 2015, Mayor de Blasio announced the NYC 15/15 Initiative, in which the City would provide \$2.6 billion in funding to develop 15,000 units of supportive housing over the next 15 years, half of which would be new development and half would come online as the City converts existing units.¹³³ This supportive housing initiative is the housing component of First Lady Chirlane McCray’s ThriveNYC Mental Health Roadmap.¹³⁴ The varied populations that will be served include young adults (aged 25 years or younger) leaving or having recently left foster care or who have been in foster care for more than a year after their 16th birthday and who are homeless or at-risk of homelessness.

In January 2016, Mayor de Blasio announced the establishment of the Supportive Housing Task Force (“Task Force”), which was created to advise the City on how to implement the supportive housing plan. The Taskforce released a report in December 2016 with a total of 23 recommendations.¹³⁵ One recommendation includes targeting units to adults, families, and youth, and incorporating a vulnerability index that will allow the City to identify and prioritize supportive housing to target those most in need.¹³⁶

There have been new developments since the announcement of the Mayor’s NYC 15/15 plan. The first 550 scatter-site units are scheduled to come online in 2017 and will serve single adults and adult families with Serious Mental Illness (“SMI”) or Substance Use Disorder (“SUD”).¹³⁷ The RFP for 7,500 units of congregate supportive housing has been issued and DHS is currently accepting proposals.¹³⁸ These units will serve single adults and adult families with SMI/SUD, adults with children in which the head of household has SMI/SUD, young families and single young adults ages 18 to 25.¹³⁹ These units will require new construction and development and is expected come online within 18-24 months. According to Commissioner Steven Banks, the RFP for the remaining 6,905 scatter-site units was expected to be released in May 2017, and DHS also expected to release an RFP in the summer of 2017 for an additional 90 units of scatter-site supportive housing for young adult families, utilizing a new model to serve this population.¹⁴⁰

Additionally, in January 2016, Governor Cuomo announced a \$20 billion affordable housing plan in his State of the State address that would include 20,000 new supportive housing units across New York State over

¹³⁰ Supportive Housing Network of New York, NY/NY I, available at <http://shnny.org/budget-policy/nyc/ny-ny/ny-ny-i/>

¹³¹ Hernandez, Raymond, “Pataki and Giuliani Agree to Housing for the Mentally Ill,” THE NEW YORK TIMES, (April 22, 1999) available at <http://www.nytimes.com/1999/04/22/nyregion/pataki-and-giuliani-agree-on-housing-for-the-mentally-ill.html?scp=2&sq=raymond+hernandez&st=nyt>

¹³² “The Campaign 4 NY/NY Housing,” available at <http://www.nynycampaign.org/platform/>

¹³³ Dawsey, Josh, “New York City Plans \$3 Billion Homelessness Effort,” WALL STREET JOURNAL (Nov. 17, 2015) available at <http://www.wsj.com/articles/new-york-city-plans-3-billion-homelessness-effort-1447804658>.

¹³⁴ Testimony of Commissioner Steven Banks, Human Resources Administration, before the Committees on General Welfare and Housing and Buildings, November 19, 2015, available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=2506287&GUID=6565A1A5-F836-4D49-923A-BCC649B63CCD&Options=&Search>

¹³⁵ *Id.* at 7.

¹³⁶ Office of the Mayor News, “City Awards Contracts to Provide 550 Supportive Housing Units,” (Dec. 12, 2016) available at <http://www1.nyc.gov/office-of-the-mayor/news/941-16/city-awards-contracts-provide-550-supportive-housing-units>

¹³⁷ Testimony of Steven Banks, Commissioner of the Department of Social Services, before the New York City Council Committees on General Welfare and Finance, Fiscal Year 2018 Executive Budget Hearing on May 15, 2017, available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=3028995&GUID=35473509-8D68-438D-8E6C-2A7B93F042D1&Options=&Search=>

¹³⁸ *Id.* at 11.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

the next 15 years.¹⁴¹ In May 2017, Governor Cuomo signed legislation that includes \$2.5 billion in the State Fiscal Year 2018 budget to advance the construction and preservation of 110,000 units of affordable and 6,000 units of supportive housing over the next five years.¹⁴²

Young Women's Initiative

In October 2015, the New York City Council (“the Council”) launched the Young Women’s Initiative, spearheaded by Speaker Melissa Mark-Viverito, to identify the gaps in services for young women age 12-24, with a focus on women of color, including cisgender and transgender women.¹⁴³ The Council convened various stakeholders across the City, including but not limited to community-based organizations, advocates, policy experts, and young women, who made recommendations to better support women and girls across the five boroughs.¹⁴⁴ One of the recommendations was to “ensure that the newly appointed Supportive Housing Task Force prioritizes the complex housing needs of runaway and homeless youth, including those who may be young parents.”¹⁴⁵ The Council ensured that the Supportive Housing Task Force prioritized the complex housing needs of runaway and homeless youth. In January 2017, the Administration confirmed that youth in the RHY system will be eligible for new supportive housing units.¹⁴⁶

VII. Bill Analysis

Proposed Int. No. 1619-A – A Local Law to amend the administrative code of the city of New York, in relation to runaway youth and homeless youth who have not accessed shelter services funded by the department of youth and community development

Section one of Proposed Int. No. 1619-A would amend Section 21-401 of the Administrative Code, the definition section of Chapter 4 of Title 21, which covers DYCD. The legislation would make technical amendments to existing definitions and would add new definitions of runaway youth, homeless youth, homeless young adult, transitional independent living support program and runaway and homeless youth crisis services program. All definitions would be the same as those terms are defined in the New York State Executive Law.

Section two of Proposed Int. 1619-A would require DYCD to submit to the Speaker and post on its website homeless and runaway youth shelter access reports beginning July 31, 2018, and by each January 31 and July 31 thereafter. Proposed Int. 1619-A would require the reports to include the number of runaway and homeless youth who contacted or presented themselves to a runaway and homeless youth services program to request shelter and were not able to access shelter services during the six-month periods ending on June 30 and December 31, respectively. The reports would include, but not be limited to, the total number of youth eligible for a DYCD-funded program on the date such program’s services were sought who could not access shelter services, disaggregated by: the type of shelter services the youth was attempting to obtain; the name of the shelter at which the youth did not access shelter services; the bed capacity at the shelter; the number of beds available at the shelter at the time the youth did not access shelter services; the ages of youth who did not access shelter services; whether the youth who did not access shelter services identified as a member of the lesbian, gay, bisexual, transgender, queer or intersex community, if such information was volunteered by the youth; and the reason why the youth did not access shelter services including, but not limited to, bed capacity,

¹⁴¹ Conley, K. and Carl Campanile, “Cuomo reveals \$20 billion affordable-housing plan,” NY POST (Jan. 13, 2016) *available at* <http://nypost.com/2016/01/13/cuomo-reveals-20-billion-affordable-housing-plan/>.

¹⁴² Press Release, “Governor Cuomo Launches Landmark \$20 Billion Plan to Combat Homelessness and Create Affordable Housing For All New Yorkers,” (May 18, 2017) *available at* <https://www.governor.ny.gov/news/governor-cuomo-launches-landmark-20-billion-plan-combat-homelessness-and-create-affordable>

¹⁴³ Press Release, New York City Council, “Speaker Mark Viverito and The New York City Council Launch the Young Women’s Initiative,” (Oct. 8, 2015) *available at* <https://council.nyc.gov/press/2015/10/08/175/>

¹⁴⁴ *Id.*

¹⁴⁵ Young Women’s Initiative Report Recommendations, *see* <http://shewillbe.nyc/recommendations/>

¹⁴⁶ Speaker Melissa Mark-Viverito and the New York City Council Young Women’s Initiative, Community Support & Opportunity (April 25, 2017) *available at* <http://shewillbe.nyc/2017/04/25/community-support-opportunity/>

bed availability, insufficient beds in a specific type of program, or whether such youth chose not to accept a bed that was offered. The information would be further disaggregated by the reason such youth did not accept the bed, if such information is available.

Beginning on January 1, 2019, all DYCD providers would submit the information required pursuant to the proposed legislation to DYCD through an electronic database designated by DYCD, and the reports would additionally include whether the provider referred the youth to another shelter; the name of the shelter to which the provider referred the youth, if applicable; and whether that shelter admitted the youth to receive shelter services. Proposed Int. 1619-A would take effect immediately.

After the first hearing on Proposed Int. No. 1619-A, amendments were made to the legislation, including amending the frequency of the reports from quarterly to biannually, and expanding reporting categories, including the reason why the youth did not access the shelter.

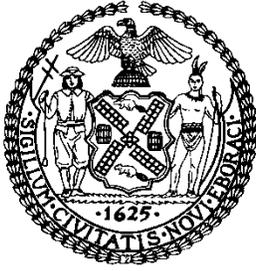
Proposed Int. No. 1705-A - A Local Law to amend administrative code of the city of New York, in relation to runaway and homeless youth entering department of homeless services shelters

Section one of Proposed Int. No. 1705-A would make the same changes to Section 21-401 of the Administrative Code as Proposed Int. 1619-A.

Section two of Proposed Int. No. 1705-A would require DHS and DYCD to create and maintain a process for conducting intake and assessments for runaway youth and homeless youth who have reached the age and/or time limitations applicable to DYCD-funded shelter services or, as designated by the DYCD, other runaway or homeless youth receiving shelter services, and who seek to transition from runaway and homeless youth shelter services to a DHS shelter. The bill would require that the process allow runaway or homeless youth to bypass DHS intake centers or assessment shelters when DYCD, or an organization that receives funding from DYCD to provide shelter services, provides demographic and social services information for any youth, as agreed upon between DYCD and DHS, in advance of the youth's presentation to the DHS shelter system. The intake and assessment process would originate at a runaway and homeless youth shelter. The bill would also require that the intake and assessment process, and any necessary information sharing between the departments would only occur with the youth's consent. Proposed Int. 1705-A would also require biannual reporting starting July 31, 2018 on a description of the intake and assessment process required by the proposed law; the number of runaway and homeless youth referred through the process; where such youth were referred from; whether the youth accessed services through the process; and any recommendations for changes to the process. Proposed Int. No. 1705-A would take effect immediately.

After the first hearing on Proposed Int. 1705-A, the bill was amended to clarify that the process would originate at a DYCD-funded shelter and added the reporting requirement.

(The following is the text of the Fiscal Impact Statement for Int. No. 1619-A:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
 LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO.: 1619-A
COMMITTEE: Youth Services

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to runaway youth and homeless youth who have not accessed shelter services funded by the department of youth and community development

Sponsor: By Council Members Johnson, Levin, Constantinides, Gentile, Menchaca, Salamanca, Espinal, Dromm, Rose, Mendez, Eugene, Reynoso, Van Bramer, Levine and Lander

SUMMARY OF LEGISLATION: Proposed Intro. 1619-A would require the Department of Youth and Community (DYCD) Development to provide a semiannual report to the Speaker, and post such report on its website, on the number of runaway and homeless youth who were not able to access runaway and homeless youth shelters.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$50,000	\$50,000	\$50,000
Net	(\$50,000)	(\$50,000)	(\$50,000)

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

IMPACT ON EXPENDITURES: It is estimated that DYCD would require a one-time investment of \$100,000, spread over calendar year 2018, to upgrade its information technology capacity in order to effectively collect and organize data relevant to the report required by this legislation. Funds would support staff time as well as a consultant who has already been retained to upgrade other information systems across the agency.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Jessica Ackerman, Senior Financial Analyst

ESTIMATE REVIEWED BY: Rebecca Chasan, Counsel
 Eisha Wright, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced as Intro. No. 1619 by the Council on May 24, 2017, and was referred to the Committee on Youth Services. The Committee on Youth Services held a joint hearing with the Committee on General Welfare on September 28, 2017 and the legislation was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1619-A, will be considered by the Committee on Youth Services on December 18, 2017. Upon a successful vote by the Committee, Proposed Intro. 1619-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

(For text of Int. No. 1705-A and its Fiscal Impact Statement, please see, respectively, the Report of the Committee on Youth Services for Int. No. 1705-A printed in these Minutes; for text of Int. No. 1619-A, please see below)

Accordingly, this Committee recommends its adoption of Int. Nos. 1619-A and 1705-A.

(The following is the text of Int. No. 1619-A:)

Int. No. 1619-A

By Council Members Johnson, Levin, Constantinides, Gentile, Menchaca, Salamanca, Espinal, Dromm, Rose, Mendez, Eugene, Reynoso, Van Bramer, Levine, Lander, Chin, Greenfield, Cumbo and Kallos.

A Local Law to amend the administrative code of the city of New York, in relation to runaway youth and homeless youth who have not accessed shelter services funded by the department of youth and community development

Be it enacted by the Council as follows:

Section 1. Section 21-401 of the administrative code of the city of New York, subdivision a as added by local law number 81 for the year 1996 and subdivisions c, d and e as added by local law number 23 for the year 2013, is amended to read as follows:

§ 21-401 Definitions. [Whenever used in] *For the purposes of this chapter the following [words shall] terms have the following meanings:*

[a. "Commissioner" shall mean] *Commissioner. The term "commissioner" means the commissioner of the department of youth and community development.*

[b. "Department" shall mean] *Department. The term "department" means the department of youth and community development.*

Homeless young adult. The term "homeless young adult" has the same meaning as provided in section 532-a of the executive law.

Homeless youth. The term "homeless youth" has the same meaning as provided in section 532-a of the executive law. For the purposes of this chapter, the term homeless youth shall also include homeless young adults.

Runaway and homeless youth crisis services program. The term "runaway and homeless youth crisis services program" has the same meaning as provided in section 532-a of the executive law.

[c. "Runaway and homeless youth services" shall mean department-administered] *Runaway and homeless youth services. The term "runaway and homeless youth services" means department-funded street outreach and referral services, drop-in centers, runaway and homeless youth crisis [shelters] services programs, and transitional independent living [centers] support programs.*

Runaway youth. The term “runaway youth” has the same meaning as provided in section 532-a of the executive law.

[d. “Sexually exploited child” shall have] *Sexually exploited child.* The term “sexually exploited child” has the same meaning as provided in subdivision one of section 447-a of the [New York State] social services law.

Shelter services. The term “shelter services” means residential programs within runaway and homeless youth crisis services programs and transitional independent living support programs.

Transitional independent living support program. The term “transitional independent living support program” has the same meaning as provided in section 532-a of the executive law.

[e. “Youth: shall mean] *Youth.* The term “youth” means any person under [twenty-four] 24 years of age.

§ 2. Chapter 4 of title 21 of the administrative code of the city of New York is amended by adding a new section 21-404 to read as follows:

§ 21-404 *Homeless and runaway youth shelter access report.*

a. Beginning July 31, 2018, and by each January 31 and July 31 thereafter, the department shall submit to the speaker and post on its website a report relating to the number of runaway and homeless youth who contacted or presented themselves to a runaway and homeless youth services program to request shelter and were not able to access shelter services during the six month periods ending on June 30 and December 31, respectively. Such report shall include, but not be limited to, the total number of youth eligible for a department-funded program on the date such program’s services were sought who could not access shelter services, disaggregated by:

1. The type of shelter services the youth was attempting to obtain, including, but not limited to, a runaway and homeless youth crisis services program or a transitional independent living support program;
2. The name of the runaway and homeless youth crisis services program or transitional independent living support program at which the youth did not access shelter services;
3. The bed capacity at such runaway and homeless youth crisis services program or transitional independent living support program;
4. The number of beds available at such runaway and homeless youth crisis services program or transitional independent living support program at the time the youth did not access shelter services;
5. The ages of youth who did not access shelter services;
6. Whether the youth who did not access shelter services identified as a member of the lesbian, gay, bisexual, transgender, queer or intersex community, if such information was volunteered by the youth; and
7. The reason why the youth did not access shelter services including, but not limited to, bed capacity, bed availability, insufficient beds in a specific type of program, or whether such youth chose not to accept a bed that was offered. Such information shall be further disaggregated by the reason such youth did not accept the bed, if such information is available.

b. Beginning January 1, 2019, all providers under contract or similar agreement with the department to provide runaway and homeless youth crisis services or transitional independent living support programs shall submit the information required pursuant to this section to the department through an electronic database designated by the department and shall include the following information in the reports required pursuant to subdivision a of this section:

1. Whether the provider referred the youth to another department-funded runaway and homeless youth crisis services program or transitional independent living support program;
2. The name of the runaway and homeless youth services program or transitional independent living support program to which the provider referred the youth, if applicable; and
3. Whether that runaway and homeless youth services program or transitional independent living support program admitted the youth to receive shelter services.

§ 3. This local law takes effect immediately.

MATHIEU EUGENE, Chairperson; MARGARET S. CHIN, DAVID G. GREENFIELD, LAURIE A. CUMBO; Committee on Youth Services, December 18, 2017. Other Council Members Attending: Council Members Johnson, Levin, Rose and Garodnick.

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. 1705-A

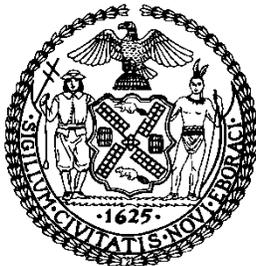
Report of the Committee on Youth Services in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to runaway and homeless youth entering department of homeless services shelters.

The Committee on Youth Services, to which the annexed proposed amended local law was referred on September 7, 2017 (Minutes, page 3158), respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Youth Services for Int. No. 1619-A printed in these Minutes)

The following is the text of the Fiscal Impact Statement for Int. No. 1705-A:



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO.: 1705-A

COMMITTEE: Youth Services

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to runaway youth and homeless youth entering department of homeless services shelters.

Sponsor: By Council Members Salamanca, Johnson, Dromm, Menchaca, Mendez, Torres, Vacca, Van Bramer, Rosenthal, Levin, Espinal, Rose, Eugene, Reynoso, Levine, Lander and Kallos.

SUMMARY OF LEGISLATION: Proposed Intro. 1705-A would require the Department of Homeless Services (DHS) and the Department of Youth and Community Development (DYCD) to create and maintain a process for conducting intake and assessments for any runaway or homeless youth seeking to enter a DHS shelter. The bill would require that the process allow runaway or homeless youth to bypass DHS intake centers or assessment shelters and would originate at a runaway and homeless youth shelter.

Further, on or before July 31, 2018, and every six months thereafter, DYCD would submit a report to the Mayor and Speaker of the City Council which would include, but need not be limited to, a description of the agreed-upon intake process, the number of runaway and homeless youth referred through the process, youth's shelters of origin, the extent to which such youth have received services, and any recommendations for improvements to the process.

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
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: It is estimated that there would be no impact on expenditures resulting from the enactment of this legislation because the agencies would use existing resources to implement the provisions of the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Jessica Ackerman, Senior Financial Analyst

ESTIMATE REVIEWED BY: Rebecca Chasan, Counsel
Eisha Wright, Unit Head

LEGISLATIVE HISTORY: This legislation was introduced as Intro. No. 1705 by the Council on September 7, 2017, and was referred to the Committee on Youth Services. The Committee on Youth Services considered the legislation at a joint hearing with the Committee on General Welfare on September 28, 2017 and the legislation was laid over. The legislation was subsequently amended, and the amended version, Proposed Intro. No. 1705-A will be considered by the Committee on Youth Services on December 18, 2017. Upon a successful vote by the Committee on Youth Services, Proposed Intro. 1705-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 13, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1705-A:)

Int. No. 1705-A

By Council Members Salamanca, Johnson, Dromm, Menchaca, Mendez, Torres, Vacca, Van Bramer, Rosenthal, Levin, Espinal, Rose, Eugene, Reynoso, Levine, Lander, Kallos, Chin, Greenfield and Cumbo.

A Local Law to amend the administrative code of the city of New York, in relation to runaway and homeless youth entering department of homeless services shelters

Be it enacted by the Council as follows:

Section 1. Section 21-401 of the administrative code of the city of New York, subdivision a as added by local law number 81 for the year 1996 and subdivisions c, d and e as added by local law number 23 for the year 2013, is amended to read as follows:

§ 21-401 Definitions. [Whenever used in] *For the purposes of this chapter the following [words shall] terms* have the following meanings:

[a. “Commissioner” shall mean] *Commissioner. The term “commissioner” means the commissioner of the department of youth and community development.*

[b. “Department” shall mean] *Department. The term “department” means the department of youth and community development.*

Homeless young adult. The term “homeless young adult” has the same meaning as provided in section 532-a of the executive law.

Homeless youth. The term “homeless youth” has the same meaning as provided in section 532-a of the executive law. For the purposes of this chapter, the term “homeless youth” shall also include homeless young adults.

[c. “Runaway and homeless youth services” shall mean department administered] *Runaway and homeless youth services. The term “runaway and homeless youth services” means department-funded street outreach and referral services, drop-in centers, runaway and homeless youth crisis [shelters] services programs, and transitional independent living [centers] support programs.*

Runaway and homeless youth crisis services program. The term “runaway and homeless youth services program” has the same meaning as provided in section 532-a of the executive law.

Runaway youth. The term “runaway youth” has the same meaning as provided in section 532-a of the executive law

[d. “Sexually exploited child” shall have] *Sexually exploited child. The term “sexually exploited child” has the same meaning as provided in subdivision one of section 447-a of the [New York State] social services law.*

Shelter services. The term “shelter services” means residential programs within runaway and homeless youth crisis services programs and transitional independent living support programs.

Transitional independent living support program. The term “transitional independent living support program” has the same meaning as provided in section 532-a of the executive law.

[e. “Youth shall mean] *Youth. The term “youth” means any person under [twenty-four] 24 years of age.*

§ 2. Chapter 4 of title 21 of the administrative code of the city of New York is amended to add new section 21-405 to read as follows:

§ 21-405 *Intake and assessment of runaway and homeless youth.*

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

Assessment shelter. The term “assessment shelter” means a facility operated by the department of homeless services or a provider under contract or similar agreement with such department where individuals undergo assessments required to reside in such department’s shelter system.

Homeless youth. The term “homeless youth” has the same meaning as provided in section 532-a of the executive law. For the purposes of this section, the term “homeless youth” shall also include homeless young adults to the extent that services to homeless young adults are included in department-funded runaway and homeless youth shelter services contracts.

Intake and assessment. The term “intake and assessment” means the process for entry into a shelter operated by the department of homeless services or a provider under contract or similar agreement with such department.

Intake center. The term “intake centers” means a facility operated by the department of homeless services or a provider under contract or similar agreement with such department where individuals or families apply to enter such department’s homeless services shelter system.

b. The department of homeless services and the department shall create and maintain an intake and assessment process for runaway youth and homeless youth who have reached the age and/or time limitations applicable to department-funded shelter services or, as designated by the department, other runaway or homeless youth receiving shelter services, and who seek to transition from runaway and homeless youth shelter services to a department of homeless services shelter. Such process shall permit eligible runaway youth or homeless youth to bypass entry into an intake center or assessment shelter operated by the department of homeless services when the department, or an organization that receives funding from the department to provide shelter services, provides demographic and social services information for any such youth, as agreed upon between the department and the department of homeless services, in advance of such youth's presentation to the department of homeless services shelter system. Such process shall originate at a transitional independent living support program or a runaway and homeless youth crisis services program funded by the department. The intake and assessment bypass permitted pursuant to this section and any necessary information sharing between the department of homeless services and the department-funded program or the department shall only occur with the consent of such youth.

c. On or before July 31, 2018, and every six months thereafter, the department shall submit a report to the mayor and the speaker of the council which includes, but need not be limited to, the following information: a description of the intake and assessment process required by subdivision b of this section; the number of runaway and homeless youth referred through such process; where such youth were referred from; whether such youth accessed services through the process; and any recommendations for changes to the process.

§ 3. This local law takes effect immediately.

MATHIEU EUGENE, *Chairperson*; MARGARET S. CHIN, DAVID G. GREENFIELD, LAURIE A. CUMBO; Committee on Youth Services, December 18, 2017. *Other Council Members Attending: Council Members Johnson, Levin, Rose and Garodnick.*

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

Report for Int. No. 1465-A

Report of the Committee on Environmental Protection in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to phasing out the use of residual fuel oil and fuel oil grade no. 4 in boilers in in-city power plants.

The Committee on Environmental Protection, to which the annexed proposed amended local law was referred on February 1, 2017 (Minutes, page 349), and laid over by the Council at the November 30, 2017

Stated Meeting (Minutes, page 4108) and the December 11, 2017 Stated Meeting (Minutes, page 4693), respectfully

REPORTS:

I. INTRODUCTION

On November 29, 2017, the Committee on Environmental Protection, chaired by Council Member Costa Constantinides, will hold a hearing for the purposes of conducting a vote on Proposed Int. No. 1300-A, which requires collection and posting of noise mitigation plans from construction sites, and Proposed Int. No. 1465-A, which requires use of cleaner heating oil for in-city power plants. The Committee previously held a hearing on Int. No. 1300 on September 25, 2017, and received testimony from the New York City Department of Environmental Protection, advocacy organizations and interested members of the public. The Committee also previously held a hearing on Int. No. 1465 on April 24, 2017, and received testimony from the Mayor's Office of Sustainability and representatives from energy companies and advocacy groups. More information about these bills is available with the materials for the hearings, which can be accessed online at <http://legistar.council.nyc.gov/>.

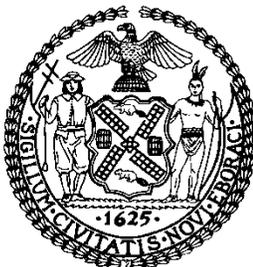
II. PROPOSED INT. NO. 1300-A

Proposed Int. No. 1300-A would require the Department of Environmental Protection (DEP) to collect all noise mitigation plans from construction sites and make those plans publicly available on the DEP website. The bill would also require the conspicuous posting of noise mitigation plans on the exterior of construction sites.

III. PROPOSED INT. NO. 1465-A

Proposed Int. No. 1465-A would accelerate the timeline for such plants to shift from using higher grade fuel oil (e.g. fuel oil grade number 6 or 4) to lower grade fuel oil (fuel oil grade number 2). Currently, power plants can burn fuel oil grade number 6 until 2020 and fuel oil grade number 4 until 2030. Under this bill, plant owners would have the option of either (1) continuing to burn fuel oil grade number 6 until 2021, but switching immediately thereafter to fuel oil grade number 2 or (2) switching from fuel oil grade number 4 to fuel oil grade number 2 by 2025 (instead of 2030).

(The following is the text of the Fiscal Impact Statement for Int. No. 1465-A:)



THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT

PROPOSED INTRO. NO. 1465-A

COMMITTEE: ENVIRONMENTAL PROTECTION

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to phasing out the use of residual fuel oil and fuel oil grade no. 4 in boilers in in-city power plants

SPONSORS: By Council Members Torres, Constantinides, Salamanca, Richards, Mendez, Rosenthal, Chin, Johnson, Koslowitz, Espinal, Kallos, Rodriguez, Cornegy, Williams, Levine, Gentile and Cohen

SUMMARY OF LEGISLATION: Proposed Intro. No. 1465-A would accelerate the timeline for power plants using fuel oil to generate steam or electricity to shift from using higher-grade fuel oil (e.g. fuel oil grade number 6 or 4) to lower grade fuel oil (fuel oil grade number 2). Currently, power plants can burn fuel oil grade number 6 until 2020 and fuel oil grade until 2030. Under this bill, plant owners would have the option of either (1) continuing to burn fuel oil grade number 6 until 2021, but switching immediately thereafter to fuel oil grade number 2 or (2) switching from fuel oil grade number 4 to fuel oil grade number 2 by 2025 (instead of 2030).

EFFECTIVE DATE: This local law would take effect immediately.

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: It is anticipated 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 the enactment of this legislation as the costs to implement the provisions of this legislation would be incurred by non-City entities.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCES OF INFORMATION: New York City Council Finance Division
Mayor's Office of City Legislative Affairs

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

ESTIMATE REVIEWED BY: Rebecca Chasan, Counsel, Finance Division
Cirlhien Francisco, Unit Head, Finance Division
Nathan Toth, Director, Finance division

LEGISLATIVE HISTORY: This legislation was introduced to the Council as Intro. No. 1465 on February 1, 2017 and was referred to the Committee on Environmental Protection (Committee). The Committee considered the legislation at a hearing on April 24, 2017, and the legislation was laid over. The legislation was subsequently amended and the amended legislation, Proposed Intro. No. 1465-A was voted out of Committee on November 29, 2017, and was laid over by the Council on November 30, 2017 and December 11, 2017. Intro. No. 1465-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: December 15, 2017.

(For text of Int. No. 1300-A and its Fiscal Impact Statement, please see the Report of the Committee on Environmental Protection for Int. No. 1300-A printed in the Minutes of the Stated Minutes of November 30, 2017, page 4105; for text of Int. No. 1465-A, please see below)

Accordingly, this Committee recommends its adoption of Int. Nos. 1465-A and 1300-A.

(The following is the text of Int. No. 1465-A:)

Int. No. 1465-A

By Council Members Torres, Constantinides, Salamanca, Richards, Mendez, Rosenthal, Chin, Johnson, Koslowitz, Espinal, Kallos, Rodriguez, Cornegy, Williams, Levine, Gentile, Cohen, Menchaca, Van Bramer, Deutsch, Vacca, Rose, Treyger, Vallone, Gibson, Barron, Crowley and Maisel.

A Local Law to amend the administrative code of the city of New York, in relation to phasing out the use of residual fuel oil and fuel oil grade no. 4 in boilers in in-city power plants

Be it enacted by the Council as follows:

Section 1. Section 24-168 of the administrative code of the city of New York, as amended by local law number 38 for the year 2015, is amended to read as follows:

§ 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 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 equipment that 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] *Except as provided in subdivision (f) of this section, no person shall cause or permit a boiler to burn residual fuel oil on or after January 1, 2020.*

(d) [No] *Except as provided in subdivision (f) of this section, no person shall cause or permit a boiler to burn fuel oil grade no. 4 on or after January 1, 2030, or for a boiler used to generate electricity and/or steam in an electric, steam, or combined electric and steam generation facility, on or after January 1, 2025.*

(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.

(f) *Notwithstanding any other provision of this section, at the election of the owner or operator of a boiler used to generate electricity and/or steam in an electric, steam, or combined electric and steam generation facility, residual fuel oil may be burned in such boiler until December 31, 2021, if such owner or operator notifies the department of such election on or before June 30, 2019, in a form and manner established by the department, and provided further that on and after January 1, 2022, no person shall cause or permit such boiler to burn residual fuel oil or fuel oil grade no. 4.*

§ 2. This local law takes effect immediately.

COSTA G. CONSTANTINIDES, *Chairperson*; STEPHEN T. LEVIN, DONOVAN J. RICHARDS, RORY I. LANCMAN, ERIC A. ULRICH; Committee on Environmental Protection, November 29, 2017.

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. 1486-A

Report of the Committee on Education in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report information on school applications, offers of admission, enrollment and school seats available.

The Committee on Education, to which the annexed proposed amended local law was referred on March 1, 2017 (Minutes, page 643) and which was laid over by the Council at the December 11, 2017 (Minutes, page 4486), respectfully

REPORTS:

Introduction

On December 7, 2017, the Committee on Education, chaired by Council Member Daniel Dromm, voted on Introduction No. 1486-A, sponsored by Council Member Ben Kallos. The bill would require the Department of Education (DOE) to report information on applications, offers of admission, enrollment, and anticipated seats available in DOE schools. A hearing was previously held on this bill on February 28, 2017. At that hearing, the Committee heard from representatives from the DOE, the School Construction Authority (SCA), elected officials, union leaders, advocates, educators, and parents. On December 7, 2017, the Committee passed Introduction No. 1486-A by a vote of fifteen in the affirmative, zero in the negative, with zero abstentions.

Background

Overcrowding Crisis

Overcrowded schools, where student enrollment exceeds school capacity (the total number of students that a school can accommodate), are a perennial and critical problem in New York City.¹ According to the Preliminary Mayor's Management Report (PMMR) for Fiscal Year (FY) 2017, 59% of elementary schools, 22% of middle schools, and 36% of high schools exceed capacity.² (For a map of utilization rate by district, see Figure 1 in Appendix.) Perhaps even more startling, 54% of elementary and middle school students and 47% of high school students citywide attend schools that exceed capacity.³ Further, the average school utilization rate across the city is 106% for elementary schools, 79% for middle schools, and 92% for high schools.⁴

The school overcrowding crisis is likely to worsen over the coming years without adequate intervention. According to Department of City Planning (DCP) estimates, New York City's school-age population, which stood at 1.26 million in 2010, is expected to grow to approximately 1.34 million by 2040, an increase of 6.5%.⁵ In addition, Mayor de Blasio has proposed a 10-year plan to build or preserve 200,000 affordable housing units

¹ For historical information on overcrowding, see Committee Report for the October 3, 2008 hearing available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=448758&GUID=BA301A5D-B6B4-4C23-B7A4-A94E7710B136&Options=Advanced&Search=>.

² Preliminary Mayor's Management Report (PMMR) for Fiscal 2017, February 2017, p. 193.

³ *Id.*

⁴ DOE, "Enrollment, Capacity & Utilization Report: Target Calculation, 2015-2016 School Year," November 2016, p.229, accessed at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Enrollment-Capacity-Utilization-69>. The utilization rate is determined by dividing enrollment by adjusted capacity.

⁵ Department of City Planning (DCP), "New York City Population Projections by Age/Sex & Borough, 2010-2040," December 2013, p. 3, accessed at http://www1.nyc.gov/assets/planning/download/pdf/data-maps/nyc-population/projections_briefing_booklet_2010_2040.pdf.

across all five boroughs of New York City.⁶ Achieving the Mayor's *Housing New York* goals requires some changes to zoning regulations, including Zoning for Quality and Affordability, (ZQA)⁷ and Mandatory Inclusionary Housing (MIH)⁸, which are being used in rezoning a number of communities across the City. Rezoning are required to undergo an environmental review process, which analyzes the impact of the new development on school capacity. However, the environmental review process may not capture the full extent of the impacts, especially for housing projects. For example, the CEQR Technical Manual identifies two criteria that determine if a rezoning will have a "significant adverse impact" on school capacity: (1) the utilization rate increases by 5% or more, or (2) the utilization rate crosses the threshold from below 100% to above 100%.⁹ Thus, a rezoning can increase the utilization rate from 110% to 114.9% and still be deemed to have no impact on school capacity. This is especially problematic when multiple rezonings lead to a larger cumulative increase in school capacity. These rezonings are likely to have an impact on school overcrowding in certain neighborhoods. For example, the East New York rezoning proposal projects a net increase of 3,569 students in Community School District 19, including approximately 1,882 elementary school students, 778 intermediate school students, and 909 high school students.¹⁰ However, the Five Year Capital Plan for FY 2015-2019 only identifies a need for 1,000 Public School (PS)/Intermediate School (IS) seats for District 19, which certainly will result in existing schools becoming more crowded.¹¹

Causes of Overcrowding

As noted above, enrollment growth is a leading cause of school overcrowding, but it is not the only one. Enrollment fluctuates from year to year due primarily to changes in birth rates, increases and decreases in immigration, as well as migration of City residents to other areas.

The following table shows yearly fluctuations in enrollment from 2006 to 2016, but an overall increase in enrollment for the 10-year period:

Historical Enrollment		
Year	Enrollment	% Change
2006-2007	1,042,078	
2007-2008	1,035,406	-0.6%
2008-2009	1,029,459	-0.6%
2009-2010	1,038,741	0.9%
2010-2011	1,043,886	0.5%
2011-2012	1,041,437	-0.2%

⁶ City of New York website, *Housing New York Plan*, accessed on 2/21/17 at <http://www1.nyc.gov/nyc-resources/service/3980/housing-new-york-plan>.

⁷ DCP, "Zoning for Quality and Affordability," updated June 22, 2016, accessed at <https://www1.nyc.gov/site/planning/plans/zqa/zoning-for-quality-and-affordability.page>.

⁸ DCP, "Zoning for Quality and Affordability," updated March 22, 2016, accessed at <https://www1.nyc.gov/site/planning/plans/mih/mandatory-inclusionary-housing.page>
⁹ CEQR Technical Manual, 2014 Edition (revised 4/27/2016). Chapter 6: Community Facilities and Services. http://www.nyc.gov/html/oc/html/ceqr/technical_manual_2014.shtml.

¹⁰ DCP, "East New York Rezoning Proposal Chapter 4: Community Facilities and Services," accessed on 2/21/17 at https://www1.nyc.gov/assets/planning/download/pdf/applicants/env-review/east-new-york/04_feis.pdf.

¹¹ SCA, "FY2015-2019 Five Year Proposed Capital Plan Amendment," November 2016, at 21, available at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Capital-Plan-67>.

2012-2013	1,036,053	-0.5%
2013-2014	1,032,574	-0.3%
2014-2015	1,038,066	0.5%
2015-2016	1,076,010	3.7%

Includes all grades, all schools

Source: NYC IBO 2016

Student enrollment can also be directly impacted by changes in policy, such as the expansion of pre-kindergarten (pre-K) programs and charter schools.¹² Under Mayor de Blasio's Pre-K for All initiative, pre-K enrollment has grown from approximately 20,000 children in 2013-2014 to 70,400 in the 2016-2017 school year – an increase of more than 50,000 students in just 3 years.¹³ Similarly, enrollment in charter schools in New York City has increased tremendously in the past 10 years, from under 20,000 in 2007¹⁴ to more than 119,000 in 2017.¹⁵ Although not all pre-K or charter school seats are located in DOE facilities, the rapid expansion of both have added significantly to the need for new school capacity. Added pressure on school capacity was generated with a 2014 change in State law that requires New York City to provide new and expanding charter schools with free space in public schools or else pay rental costs for private space.¹⁶

Other policy decisions can have an impact on school overcrowding not by increasing or decreasing overall student enrollment, but rather by shifting students from one school to another. For example, an unintended consequence of former Mayor Michael Bloomberg's policy of closing or phasing out large, low-performing high schools instituted was that many students were displaced to surrounding schools, thereby significantly increasing enrollment in those schools, in some cases by more than 20%.¹⁷

The policy of co-locating several schools within a single school building also impacts capacity. Each co-located school needs its own administrative offices, spaces to provide services for students with disabilities, and other specialized spaces, so instructional space is often lost as regular classrooms are converted for administrative and other uses.¹⁸

The SCA has also committed to removing all trailers, called Transportable Classroom Units (TCUs), from schoolyards. In the past, TCUs were widely used to provide additional classroom space at overcrowded schools. While some TCUs have been removed in recent years, 260 still remain, serving thousands of students and increasing the need for new seats.

Other factors beyond the control of officials, such as the increasing number of special education students, also have an impact on capacity. The number of students with disabilities affects space usage because special education classes are significantly smaller than general education classes (particularly self-contained classes,

¹² For further information on enrollment changes, see Committee Report for the October 3, 2008 hearing available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=448758&GUID=BA301A5D-B6B4-4C23-B7A4-A94E7710B136&Options=Advanced&Search=>.

¹³ DOE press release, "Independent Research Shows High Satisfaction with Pre-K For All Expansion," 9/27/16, accessed at <http://schools.nyc.gov/Offices/mediarelations/NewsandSpeeches/2016-2017/Independent+Research+Shows+High+Satisfaction+with+Pre+K+For+All+Expansion.htm>.

¹⁴ New York City Charter School Center, "New York City Charter Schools are Growing," accessed on 2/21/17 at <http://www.nyccharterschools.org/sites/default/files/resources/factsheet-Growth-Demand.pdf>.

¹⁵ Data provided by DOE to Council per term and condition.

¹⁶ State Education Law (SEL) § 2853(3)(e).

¹⁷ Clara Hemphill, and Kim Nauer, *The New Marketplace: How Small School Reforms and School Choice Have Reshaped New York City's High Schools*, Center for New York City Affairs, Milano New School, June 2009, accessed at <http://www.centernyc.org/reports/https://static1.squarespace.com/static/53ee4f0be4b015b9c3690d84/t/5715033955598669d776bad5/1460994874837/237437699-The-New-Marketplace.pdf>.

¹⁸ For further information, see Committee Report for the March 3, 2015 hearing available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=448758&GUID=BA301A5D-B6B4-4C23-B7A4-A94E7710B136&Options=Advanced&Search=>.

which contain between 6 and 15 students), and are often housed in rooms designed for more students.¹⁹ Many students with disabilities also receive mandated services, such as physical or occupational therapy or counseling, which require dedicated space. According to the latest PMMR data, in the 2-year period from FY 2014 to FY 2016 the number of public school-age special education students grew from 192,110 to 206,839, an increase of 14,729 students or approximately 7.7%.²⁰

Impact of Overcrowding

School overcrowding shortchanges students in multiple ways. In overcrowded schools, specialized spaces such as science labs, libraries, music, and art rooms are often converted into regular classrooms, negatively impacting instruction for students in these subjects.²¹ In 2011, the Council passed legislation requiring the DOE to report on capacity and utilization data in an attempt to enhance transparency around this issue.²² Yet, some schools with severe overcrowding continue to have to use hallways, closets, stairwells, gymnasiums and other spaces not intended for instruction as makeshift classrooms.²³

In overcrowded schools, multiple lunch periods are needed to accommodate all students, with lunch periods sometimes starting before 10 a.m. and continuing into the mid-afternoon.²⁴ A 2014 review conducted by WNYC and the *Daily News* found that as many as 40% of the City public schools started lunch periods by 10:45 in the morning.²⁵ Students who eat lunch so early in the morning are likely to be hungry by afternoon and less engaged and able to focus on schoolwork.²⁶

Research shows that overcrowded environments are not conducive to learning and have a negative impact on both students and teachers. Crowding causes stress and is found to have an effect on interpersonal behaviors, mental health and motivation.²⁷ Crowded schools are also noisier, with greater exposure to noise affecting children's reading abilities, cognitive development and attention.²⁸ Teachers in noisy schools are more fatigued and less patient than teachers in quieter schools, and they lose instruction time due to noise distractions.²⁹

Overcrowded schools also tend to have larger class sizes, which can have a negative effect on student learning. A considerable body of research has shown that larger classes are detrimental to student engagement, achievement levels, and graduation rates.³⁰

Some research has linked lower student achievement with overcrowding. One study found that students in overcrowded New York City schools scored 2 to 9 percentage points lower on math and reading exams than those in underutilized schools.³¹ A more recent study tracking thousands of students in the Los Angeles Unified School District found significant achievement gains, equivalent to about 65 days of additional

¹⁹ DOE, *Family Guide to Special Education Services for School-Age Children*, at 27, accessed on 2/21/17 at http://schools.nyc.gov/NR/rdonlyres/DBD4EB3A-6D3B-496D-8CB2-C742F9B9AB5C/0/Parent_Guide_for_Students_with_Disabilites_Updated_Web.pdf.

²⁰ Preliminary Mayor's Management Report (PMMR) for Fiscal 2017, February 2017, p. 192.

²¹ Campaign for Fiscal Equity, *Mixed Out: New York City School Overcrowding Crisis*, May 2009, accessed at http://www.goodflow.net/static.php?page=maxedout_new_york_city_school&category=reports_research.

²² Local Law 60 of 2011.

²³ See e.g., Clare Trapasso, "Western Queens parents group: we've got two overcrowded schools that need additions built," *New York Daily News*, December 28, 2011, accessed at <http://www.nydailynews.com/new-york/western-queens-parents-group-overcrowded-schools-additions-built-article-1.997877>.

²⁴ Coulter Jones, "Is It Still Lunch at 10:45 a.m.? City Schools Serve Meals at Odd Hours," *Schoolbook*, February 10, 2014. <http://www.wnyc.org/story/it-still-lunch-10-m-some-nyc-schools-serve-meals-odd-hours/>.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Kimberly Kopko, *The Effects of the Physical Environment on Children's Development*, Cornell University College of Human Ecology, Department of Human Development Outreach & Extension, 2007, accessed at <http://www.human.cornell.edu/hd/outreach-extension/upload/evans.pdf>.

²⁸ *Id.*

²⁹ *Id.*

³⁰ For a brief summary of the research, see Class Size Matters, "The Benefits of Class Size Reduction," June 2013, available at www.classsizematters.org/wp-content/uploads/2013/06/CSR-national-fact-sheet1.pdf. See also research links at <http://www.classsizematters.org/research-and-links/>.

³¹ Francisco L. Rivera-Batiz and Lillian Marti, *A School System at Risk: A Study of the Consequences of Overcrowding in New York City Public Schools*, Institute for Urban and Minority Education, Teachers College, Columbia University, January 1995, accessed at <http://files.eric.ed.gov/fulltext/ED379381.pdf>.

instruction per year, for elementary students “who escaped severe overcrowding by moving to a new elementary school.”³²

Efforts to Address Overcrowding

A 2016 DOE report, *Space Overutilization in New York City Public Schools: Report on the 2014-2015 School Year*, describes the methods used to address school overcrowding: “The DOE uses various strategies to alleviate overcrowding and to address increases in enrollment. These strategies include new construction, rezoning the catchment areas of zoned schools, helping principals program their instructional space more efficiently, repurposing and creating capacity through room conversion projects, and siting new or expanded schools and programs in underutilized facilities.”³³

The primary strategy for alleviating school overcrowding is the creation of new capacity by constructing new school buildings or annexes, leasing space, or allocating capital funding for room conversions or other capacity projects in the Five Year Capital Plan. Below is a summary of capacity projects in the current Five Year Capital Plan, followed by a description of non-capital strategies to deal with school overcrowding.

FY 2015-2019 Five Year Capital Plan

In the February 2017 Proposed Amendment for FY 2015-2019 Five Year Capital Plan (the “Proposed Amendment”), \$5.91 billion, more than one-third of the total \$15.45 billion Capital Plan, is dedicated to capacity projects.³⁴ Capacity projects include all projects to create, expand or replace school buildings. The Proposed Amendment would increase funding for capacity by almost 4%, largely as a result of an additional \$130 million increase to expand pre-K capacity and \$80 million for facility replacement.³⁵ Other categories under capacity include new capacity and class size reduction.

New Capacity Program - \$4.48 billion

The DOE has identified a need for 82,811 new seats citywide, not including pre-K seats. (For a map of identified seats needed by district, see Figure 2 in Appendix; for a chart of enrollment and identified seats needed by district, see Figure 3 in Appendix). The Proposed Amendment includes funding for 44,324 new K-12 seats, 2,601 of which are funded for design only (the cost of constructing these seats is not currently included in the plan). Of the funded seats, 24,036 are in scope or design. However, 39 out of 84 projects, representing 20,314 seats, have not been sited.³⁶ (For a map of funded seats needed that have not been sited, see Figure 4 in Appendix)

Of the 84 new capacity projects in the Proposed Amendment, 79 are elementary or middle school buildings with 41,177 seats, and 5 are grade 6-12 or high school buildings with 3,147 seats.³⁷

Pre-Kindergarten Initiative - \$800 million

This funding supports the creation of pre-K seats and, as previously mentioned, is up by \$130 million, or 19% in the Proposed Amendment. Pre-K capacity is created by building stand-alone pre-K buildings, adding pre-K classrooms in new buildings that are being constructed for elementary school use, or by leasing space

³² William Welsh, et al., *New Schools, Overcrowding Relief, and Achievement Gains in Los Angeles – Strong Returns from a \$19.5 Billion Investment, Policy Analysis for California Education*, August 2012, at 2, accessed at http://www.edpolicyinca.org/sites/default/files/pace_pb_08.pdf.

³³ DOE, *Space Overutilization in New York City Public Schools: Report on the 2014-2015 School Year*, June 1, 2016, at 1, accessed at http://schools.nyc.gov/NR/rdonlyres/40C1E850-6E4B-4511-9D5D-4CE499E6773D/198862/OverutilizationReportFINAL6_1_15.pdf.

³⁴ School Construction Authority, “FY2015-2019 Five Year Proposed Capital Plan Amendment,” February 2017, at 21, available at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Capital-Plan-67>.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

for pre-K centers. The SCA expects to create over 8,300 seats. Of the projects currently identified, six projects representing 558 seats have not been sited.³⁸

Class Size Reduction Program - \$490 million

Because of the adoption of the Smart Schools Bond Act, additional funding was made available to reduce class sizes system-wide; the Proposed Amendment allocates \$490 million to create an additional 4,900 seats.³⁹ Some of the criteria to be considered when choosing school buildings include: 1) High rate of overutilization per the latest Enrollment, Capacity, and Utilization Report; 2) Unfunded seat need in the sub-district where school building is located; 3) Use of Transportable Classroom Units; and 4) Geographic isolation.⁴⁰ The SCA identified three Class Size Reduction projects in the January 2016 amendment to the Capital Plan: P.S.19 in District 11, Bronx; East New York Family Academy in District 19, Brooklyn; and P.S. 131 in District 29, Queens.⁴¹

Facility Replacement Program - \$142 million

The Proposed Amendment allocates \$142 million to the Facility Replacement Program, which will provide development of new sites for schools that must vacate their current leased locations.⁴² The seats will be provided through new construction or alternative leasing opportunities, similar to new capacity.⁴³

Capital Task Force Projects

New seats are created not only through Capacity projects, but also through Capital Task Force (CTF) projects. CTF projects are small capital projects typically built by Division of School Facilities Skilled Trades or Job Order Contract contractors. They change capacity through room conversions.⁴⁴

Transportable Classroom Unit (TCU) Removal - \$405 million

SCA has committed to removing TCUs across the City and \$405 million is allocated for the removal of all units. The Proposed Amendment would decrease the allocation for TCU removals by \$45 million, or 10 percent, but leave the number of TCUs slated for removal unchanged. Several new capacity projects in the form of additions have been created in sites that currently contain TCUs. As a result of these additions, approximately 50 TCUs will be removed and the costs of those TCU removals will be included with the addition project, which allowed SCA to shift funding from the TCU removal category to the new capacity category.⁴⁵

Non-Capital Strategies to Alleviate Overcrowding

The key non-capital strategies to alleviate school overcrowding include the following:

³⁸ *Id.*

³⁹ Council of the City of New York, *Hearing on the Fiscal 2015 Preliminary Capital Budget & the Fiscal 2014 Preliminary Mayor's Management Report: Department of Education – School Construction Authority* 11 (March 18, 2014), available at <http://council.nyc.gov/budget/wp-content/uploads/sites/54/2014/07/fy2015-educations.pdf>

⁴⁰ SCA, “FY2015-2019 Five Year Proposed Capital Plan Amendment,” February 2017, at 26, available at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Capital-Plan-67>.

⁴¹ *Id.* at 21.

⁴² *Id.*, at 8,

⁴³ *Id.*

⁴⁴ DOE, *Space Overutilization in New York City Public Schools: Report on the 2014-2015 School Year*, June 1, 2016, at 1, accessed at http://schools.nyc.gov/NR/rdonlyres/40C1E850-6E4B-4511-9D5D-4CE499E6773D/198862/OverutilizationReportFINAL6_1_15.pdf.

⁴⁵ SCA, “FY2015-2019 Five Year Proposed Capital Plan Amendment,” November 2016, at 34-35, available at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Capital-Plan-67>.

- **Rezoning** – Changing the zone lines of schools can help redistribute the student population among schools in a district. Shrinking a school’s zone helps alleviate overcrowding by reducing the pool of students for new admissions, while expanding the size of the zone for underutilized schools helps alleviate overcrowding at nearby schools.⁴⁶
- **Programming** – More efficient programming and scheduling at the school level can mitigate the effects of overutilized buildings. For example, at the high school level, use of “split sessions” or staggered schedules for students maximizes the availability of classrooms by programming more periods per day.⁴⁷
- **Re-purposing Seats** – Each year, the DOE puts forth a number of proposals to change the way space is utilized to better meet the specific needs of individual schools and districts. These proposals for “Significant Changes In School Utilization” require a public review process outlined in Chancellor’s Regulation A-190 and approval by the Panel for Educational Policy (PEP). Such proposals include the following:
 - **Re-sitings** – The relocation of students from one building to another is often used to allow for construction to improve facilities, or as a result of losing a lease.
 - **Grade Reconfigurations** – The expansion or truncation of a school’s grade levels can be used to address under or overutilization of buildings. For example, an underutilized K-5 school could be expanded to become a K-8 school; conversely, an overcrowded K-8 school may be truncated to a K-5 school.
 - **Siting New Schools in Under-utilized Buildings** – The DOE identifies buildings with a significant amount of excess space that could accommodate new district or charter schools, D75 or D79 programs, or Pre-K Centers. By opening new schools in under-utilized space, the DOE effectively adds capacity.
 - **Consolidating Co-located Schools** – By consolidating two co-located schools into one organization, spaces that would have been used for redundant administrative or specialized purposes may instead be used for additional classroom space, creating more overall capacity in a building to serve students.
 - **School Closures** – Schools may be closed based on persistently low enrollment, performance or demand. By opening a different school option in place of an extremely under-enrolled school, the DOE is able to use space more efficiently.⁴⁸
- **Changes to Admissions Policy** – The DOE has centralized admissions processes for most pre-K, elementary, middle and high schools. Controlling the number of students who are offered admission can be used to address overutilization by limiting admission offers.⁴⁹

School Construction Authority (SCA)

The SCA is a public benefit corporation created pursuant to state law.⁵⁰ The New York State Legislature created the SCA in 1988 to streamline the City’s school construction process in response to delays and inefficiencies in the then Board of Education’s (BOE) school construction process, with schools taking 8 to 10 years to complete.⁵¹ Pursuant to changes in school governance law in 2002, management of the DOE’s capital

⁴⁶ DOE, *Space Overutilization in New York City Public Schools: Report on the 2014-2015 School Year*, June 1, 2016, Appendix V: Descriptions of Strategies to Relieve Overutilization, accessed at http://schools.nyc.gov/NR/rdonlyres/40C1E850-6E4B-4511-9D5D-4CE499E6773D/198862/OverutilizationReportFINAL6_1_15.pdf.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ New York State Public Authorities Law § 1727.

⁵¹ For more information on SCA history, see Committee Report for the October 3, 2008 hearing available at <http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=448758&GUID=BA301A5D-B6B4-4C23-B7A4->

program was further consolidated under the SCA, and the Mayor became responsible for appointing the three SCA Trustees.⁵² DOE staff previously involved in capital projects were relocated to the SCA, which became solely responsible for “planning, real estate, and budgeting, as well as the scoping, design and construction of new schools, additions and capital improvements to existing schools.”⁵³

In creating the SCA, the State Legislature exempted it from any general or special law, local law, city charter, administrative code, ordinance or resolution governing uniform land use procedures, or any other land use planning review and approval processes.⁵⁴ However, the Legislature determined that the SCA would be subject to the Environmental Conservation Law, the Parks, Recreation and Historic Preservation law, and zoning regulations.⁵⁵

School Planning Process

The SCA describes its planning process as follows:

The SCA's comprehensive capital planning process includes developing and analyzing quality data, creating and updating the Department of Education's Five-Year Capital Plans, and monitoring projects through completion. The SCA prioritizes capital projects to best meet the capacity and building improvements needs throughout the City. Additionally, the SCA assures that the Capital Plan aligns with New York State and City Department of Education mandates, academic initiatives, and budgetary resources.⁵⁶

The SCA uses the following reports and documents in the planning process to calculate the need for new capacity and inform the allocations in the Five Year Capital Plan:

- Demographic Projection Reports
- Enrollment, Capacity & Utilization Report
- Projected New Housing Starts
- Projected Public School Ratio

Demographic Projection Reports

The SCA uses two independent demographers, Grier Partnership and Statistical Forecasting LLC, to project future enrollment.⁵⁷ The demographic projections take into account the birth, enrollment, and migration trends for 5 and 10 years into the future and combine it with projected housing growth to derive the total projected enrollment.⁵⁸ More specifically, Statistical Forecasting says their methodology includes obtaining historical enrollment data from the SCA for each of the 32 community school districts, but excluding data from District 75, which is the citywide special education district in New York City, from their enrollment projections.⁵⁹ They also obtain historical birth data from the City's Department of Health and Mental Hygiene and use that data to project future birth rates.⁶⁰ In projecting future enrollment, they also use a method to

[A94E7710B136&Options=Advanced&Search=](#). See also, e.g. Eugene Kontorovich, “Why New York Can't Build Schools,” *City Journal*, Spring 1998, accessed at <https://www.city-journal.org/html/why-new-york-can%E2%80%99t-build-schools-12074.html>.

⁵² SCA website, “History,” accessed on 2/17/17 at <http://www.nycsca.org/Quick-Links-Home/About-the-SCA/History>.

⁵³ *Id.*

⁵⁴ Public Authorities Law § 1730.

⁵⁵ *Id.*

⁵⁶ SCA website, “Capital Plan Management Reports & Data,” accessed on 2/21/17 at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data>.

⁵⁷ SCA website, “Demographic Projection,” accessed on 2/21/17 at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Demographic-Projection-68>.

⁵⁸ *Id.*

⁵⁹ Statistical Forecasting LLC, “Enrollment Projections for the New York City Public Schools: 2015-16 to 2024-25, Volume I” May 2015, at 51, accessed at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Demographic-Projection-68>.

⁶⁰ *Id.*

project grade progression differences. In other words, they look at the change in the number of students for each grade from one year to the next to compare the inward versus outward migration of students and whether it is stable, increasing or decreasing over time.⁶¹ The latest projections by Statistical Forecasting indicate declining citywide enrollment each year from 2015-2016 to 2024-2025.⁶² The Grier Partnership report also shows an overall decline in enrollment over the same period, but the report does not include a section on methodology.⁶³

Enrollment, Capacity & Utilization Report

The Enrollment, Capacity, and Utilization Report (commonly known as the “Blue Book”) is published annually by the DOE and identifies the capacity of each school building based on a set of uniformly applied assumptions.⁶⁴ The capacity is then compared to the building enrollment to calculate the utilization rate of each school and building. In essence, the Blue Book provides a snapshot of current school utilization and overcrowding. The information provided in the Blue Book is used to plan major capital projects that expand the capacity of school buildings and assist in making informed decisions about the placement of new schools or programs in underutilized buildings.⁶⁵ The calculation to determine a building’s capacity is based on information provided by principals in the Principal Annual Space Survey, or PASS, which is conducted by the SCA and requires principals to verify the usage of rooms within each building.⁶⁶ A school’s capacity, which is the total number of students that it can accommodate, is based on the functions of all rooms in the building.⁶⁷ Since the 2013-2014 school year, there have been a number of changes in the Blue Book based on recommendations of the Blue Book Working Group (BBWG), which is comprised of representatives of parents, educators, elected officials, advocates, and other community stakeholders.⁶⁸ The changes made resulted in a decrease of capacity for many elementary and middle schools, and an overall citywide capacity decrease by over 26,000 seats compared to the 2013-2014 Blue Book, so “a true comparison of overutilized schools cannot be made using the 2014-2015 to 2013-2014 Blue Book reports.”⁶⁹ The 2014-2015 Blue Book will therefore serve as the new baseline for tracking overutilization moving forward.⁷⁰

Projected New Housing Starts

The DOE collaborates with other City agencies to develop a comprehensive list of new housing starts and incorporates the expected increase in school-age population into its projections. Information on new housing starts is provided by DCP, Department of Buildings, and Department of Housing Preservation and Development and is incorporated in the “Projected New Housing Starts as Used in 2015-2024 Enrollment Projection” document.⁷¹ New housing units include all projects that are either in process or scheduled to be constructed over the next 5 or 10 years.⁷²

Projected Public School Ratio

⁶¹ *Id* at 53.

⁶² *Id* at 4.

⁶³ The Grier Partnership, *Enrollment Projections 2015 to 2024 New York City Public Schools: Volume I Projection Report*, May 2015, accessed at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Demographic-Projection-68>.

⁶⁴ DOE, “Enrollment – Capacity – Utilization Report 2015-2016 School Year,” November 2016, Introduction, available at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Enrollment-Capacity-Utilization-69>.

⁶⁵ *Id*.

⁶⁶ *Id*.

⁶⁷ *Id*.

⁶⁸ *Id*.

⁶⁹ DOE, *Space Overutilization in New York City Public Schools: Report on the 2014-2015 School Year*, June 1, 2016, at 1, accessed at http://schools.nyc.gov/NR/rdonlyres/40C1E850-6E4B-4511-9D5D-4CE499E6773D/198862/OverutilizationReportFINAL6_1_15.pdf.

⁷⁰ *Id*.

⁷¹ SCA website, “Projected New Housing Starts as Used in 2015-2024 Enrollment Projection,” accessed on 2/21/17 at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Housing-Projections-70>.

⁷² *Id*.

The SCA must then estimate the expected increase in school-age population generated by the new housing development. To do this, SCA uses the “Projected Public School Ratio” which is incorporated in the City Environmental Quality Review manual to indicate the number of pupils generated from new housing per unit by borough and age.⁷³

School Siting Process

According to the SCA, “[o]ne of the greatest challenges in building new schools in New York City is finding appropriate sites.”⁷⁴ The difficulty in obtaining sites adds considerably to the timeline for school construction. Very little written information about the site selection process is available to the public, except the following excerpt from the NYC Green Schools Guide: “The SCA site selection process includes the consideration of available properties that are within the geographical and jurisdictional area of need, which meet the minimum size requirement for the targeted project.”⁷⁵ SCA’s website also includes the following information on minimum requirements for new school construction: “Sites should be a minimum of 20,000 square feet and have minimum dimensions of 100 linear feet. Other factors such as zoning and surrounding uses will also be considered.”⁷⁶

As previously noted, State law does not exempt the SCA from the State Environmental Quality Review Act (SEQRA) contained under the Environmental Conservation Law,⁷⁷ nor from the City Environmental Quality Review (CEQR) requirements, the process for implementing SEQRA within the City.⁷⁸ The purpose of SEQRA is to “provide government agencies with early assessment of environmental considerations in order to guide decision making on applications for zoning changes, permits, licenses, certificates of occupancy or other land use privileges.”⁷⁹ Pursuant to SEQRA, government agencies must consider environmental factors as early as possible in the proposal for an action and must prepare an environmental impact statement (EIS) describing the short and long-term effects of the proposed action in the environmental setting.⁸⁰ An important purpose of the EIS is to provide information about the effect that the proposed action will have on the surrounding community. Therefore, the law requires that a summary of the substantive comments received by the agency regarding the action and the agency’s response to those comments also be included in the statement.⁸¹ The EIS must also be posted on a publicly available internet website.⁸²

The New York State Public Authorities Law requires that there be significant community participation prior to “new construction or building additions of an educational facility, or the acquisition of real property.”⁸³ As part of any proposal to acquire real property, the SCA must file a site report which must include the recommended site, any alternate sites considered and reasons as to why the alternate sites were not selected. The site report must then be filed with the city board (Panel for Educational Policy), city planning commission, community school district education council (commonly known as Community Education Council or CEC) and the community board of the district where the new school will be located. The SCA must also furnish a copy of the site report or a summary thereof to any other person who requests it.⁸⁴ The SCA must publish notice of the filing of the site report in a newspaper of general circulation and within 30 days after publication, a public hearing shall be held by each affected CEC and each affected community board. If more than one CEC and/or community board is affected, the hearing may be held jointly. Within 45 days after publication each affected CEC or community board, or any other person or organization, may

⁷³ SCA website, “Projected Public School Ratio,” accessed on 2/21/17 at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Housing-Projections-70>.

⁷⁴ SCA and DOE, “NYC Green Schools Guide 2016,” at 29, accessed at <http://www.nycsca.org/Design/NYC-Green-Schools-Guide>.

⁷⁵ *Id.*

⁷⁶ SCA website, “Real Estate, FAQs” accessed on 2/24/17 at <http://www.nycsca.org/Community/Real-Estate>.

⁷⁷ Environmental Conservation Law Article 8.

⁷⁸ Mayor’s Office of Environmental Coordination, “CEQR Basics: What is CEQR?” accessed on 2/23/17 at <http://www.nyc.gov/html/oec/html/ceqr/basics.shtml>.

⁷⁹ Environmental Conservation Law § 8-0101.

⁸⁰ Environmental Conservation Law § 8-0109 (2)(h).

⁸¹ Environmental Conservation Law § 8-0109 (2).

⁸² Environmental Conservation Law § 8-0109 (4).

⁸³ Public Authorities Law § 1731.

⁸⁴ *Id.*

submit written comments on the site plan to the SCA. The SCA, after due consideration of the comments, may affirm, modify or withdraw the plan.⁸⁵

City Council Role in Site Selection

After publication of the site plan and following a public hearing, the SCA must submit the site plan to the mayor and the Council for review prior to beginning construction of educational facilities.⁸⁶ The Council has 20 days from receipt of the plan to take action to disapprove the plan. If no such action is taken, the plan is deemed to be approved.⁸⁷ If the mayor disapproves the action, the Council will have 20 days from notice of the disapproval to override the disapproval of the mayor with a two-thirds vote.⁸⁸ However, the City may not require the SCA to “conduct any further hearings or seek any further approvals as a condition for receiving City approval.”⁸⁹ If the Council or mayor disapproves the site plan the SCA may, after consultation with the DOE, revise the plan and resubmit it, or eliminate it from the Five Year Capital Plan.⁹⁰ The procedure outlined above applies only to newly-constructed educational facilities, not leased facilities.

Issues and Concerns

Current levels of school overcrowding are of tremendous concern to parents, students, teachers, elected officials, and advocates. The fact that approximately half of the City’s 1.1 million public school students are in overcrowded schools, with 54% of elementary and middle school students and 47% of high school students attending schools that exceed capacity,⁹¹ is considered unacceptable to most stakeholders. Many fear that school overcrowding could become even worse without preventive action, due to projected population growth and rezoning to facilitate creation of more affordable housing. Even more immediately, the City is in the midst of a residential housing boom, with new housing development in every borough and most communities. In fact, residential construction is on pace to have its third consecutive record-breaking year, with a projected \$13.4 billion in spending for 2016.⁹² After adjusting for inflation, this is 47% higher than the City’s previous residential boom, in 2007.⁹³

In addition, advocates point out that, while overcrowding occurs throughout the City, it disproportionately impacts immigrant communities.⁹⁴ Further, advocates maintain that the current Five Year Capital Plan is less likely to provide funding for seats in overcrowded immigrant communities than non-immigrant communities.⁹⁵

School Planning Concerns

Although the FY 2015-2019 Five Year Capital Plan currently identifies a need of approximately 83,000 seats (an increase of over 33,000 seats from the need initially forecast by the FY 2015-2019 Capital Plan),⁹⁶ many critics maintain that this is not sufficient to address both current and future overcrowding. A July 2014 audit by the City Comptroller’s office, based on 2011-2012 Blue Book data, estimated a need for 85,000

⁸⁵ *Id.*

⁸⁶ Public Authorities Law § 1732.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ Preliminary Mayor’s Management Report (PMMR) for Fiscal 2017, February 2017, p. 193.

⁹² Amy Zimmer, “Construction Spending in NYC to Hit New Record, Report Says,” *DNAinfo*, October 25, 2016, accessed at <https://www.dnainfo.com/new-york/20161025/midtown-east/construction-spending-nyc>.

⁹³ *Id.*

⁹⁴ Make the Road New York, *Where’s My Seat? How School Overcrowding Disproportionately Impacts Immigrant Communities in New York City*, November 2015, accessed at http://www.maketheroad.org/pix_reports/MRNY_WheresMySeat_FINAL.pdf.

⁹⁵ *Id.* at 8.

⁹⁶ SCA, “FY2015-2019 Five Year Proposed Capital Plan Amendment,” November 2016, at 17, available at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Capital-Plan-67>.

additional seats just to address existing overcrowding, not including future growth.⁹⁷ Since that time, overcrowding has only gotten worse.

Of the almost 83,000 seat needs identified, the Five Year Capital Plan only provides funding for the construction of approximately 42,000 seats, just over half of the total need. While inadequate funding is certainly a big part of the City's inability to mitigate school overcrowding, advocates have long pointed to the school planning and siting processes as weak links in the effort to add school capacity and maintain that flaws exist at each step in the process. Many questions persist about the accuracy of the independent demographic projections used by SCA. For example, the citywide enrollment projections by Statistical Forecasting LLC *decrease* each year from 2015-2016 to 2024-2025,⁹⁸ despite DCP estimates that the student population will increase significantly over that period. Further, although demographic projections were historically done on an annual basis, the last demographic projection reports by both Statistical Forecasting and Grier Partnership were completed in May 2015.

The accuracy of the Enrollment, Capacity & Utilization Report, or Blue Book, is also an area of great concern. If overcrowding is a measure of the extent to which a school's student population exceeds its capacity, then the way that "capacity" is measured is critical. For years, elected officials, educators, parents and others charged that the DOE's method for determining the official capacity of a school indicated in the Blue Book was faulty, resulting in inaccurate utilization rates for schools, thereby masking the true level of school overcrowding. This charge was largely confirmed by the findings of the court in the Campaign for Fiscal Equity (CFE) lawsuit.⁹⁹ The DOE subsequently made some changes to their formula, but criticisms of the Blue Book persisted. In response to these concerns, in February 2014 Chancellor Fariña formed a Blue Book Working Group (BBWG), including parents, educators, advocacy organizations, members of community education councils, and other stakeholders tasked with improving the Blue Book.¹⁰⁰ While many of the recommendations of the BBWG have been incorporated, some of the most significant proposals have not yet been acted upon. For example, the BBWG noted that the existing Blue Book target class size for grades 4 – 12 is 28, which is actually higher than the current average class size for those grades. But, the BBWG's recommendation to change to the target class sizes used for capacity calculations has not yet been adopted.

Concerns remain regarding new housing projections, which purport to project new housing starts for 5 and 10 years into the future. According to the "Projected New Housing Starts as Used in 2015-2024 Enrollment Projection," the total number of new housing units citywide estimated for the 5-year period from 2015-2019 is 148,071; while the 10-year projection for the period from 2015-2024 is just 151,383.¹⁰¹ Therefore, the number of estimated housing units for the second 5-year period is just 3,312 housing units. This questionable projection illustrates the difficulty in making long-term housing estimates, which are crucial to accurate planning for space needs.

There are also concerns about the "Projected Public School Ratio" which is used to estimate the number of school-age students generated per unit of new housing.¹⁰² One concern is that the ratios are borough-wide rather than neighborhood-based projections, which could capture differences in birth rates, numbers of school-age children, and other relevant differences among neighborhoods that are not captured using a borough ratio.¹⁰³ Furthermore, the ratios do not vary by the size of the unit or number of bedrooms. It is also argued that the ratios are not based on the most current data, and therefore do not reflect current population trends.¹⁰⁴

⁹⁷ City of New York Office of the Comptroller, Scott M. Stringer, *Audit Report on Department of Education Efforts to Alleviate Overcrowding in School Buildings*, 7E13-123A, at 9, July 8, 2014, accessed at http://comptroller.nyc.gov/wp-content/uploads/documents/7E13_123A.pdf.

⁹⁸ Statistical Forecasting LLC, "Enrollment Projections for the New York City Public Schools: 2015-16 to 2024-25, Volume I" May 2015, accessed at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Demographic-Projection-68>.

⁹⁹ See *Campaign for Fiscal Equity, et al., v. The State of New York*, 719NYS 2d 475, Index #111070/93, Decision, Jan. 10, 2001.

¹⁰⁰ DOE press release, "City Announces Changes to The 2013-2014 Blue Book," 6/27/2014, accessed at <http://schools.nyc.gov/Offices/mediarelations/NewsandSpeeches/2013-2014/City+Announces+Changes+to+The+2013-2014+Blue+Book.htm>.

¹⁰¹ SCA website, "Projected New Housing Starts as Used in 2015-2024 Enrollment Projection," accessed on 2/21/17 at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Housing-Projections-70>.

¹⁰² SCA website, "Projected Public School Ratio," accessed on 2/21/17 at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Housing-Projections-70>.

¹⁰³ Letter from Class Size Matters to City Council Speaker Melissa Mark-Viverito, December 1, 2016, on file with Education Committee staff.

¹⁰⁴ *Id.*

Another point of concern, as previously noted, is that zoning regulations require the EIS to include an impact on school seats only if the projected impact exceeds 5%.

School Siting Concerns

The most significant problem in siting schools is the difficulty in finding adequate sites in many neighborhoods throughout the City. Moreover, there is very little information publicly available about what is an appropriate site for a school. SCA's website states that "Sites should be a minimum of 20,000 square feet and have minimum dimensions of 100 linear feet. Other factors such as zoning and surrounding uses will also be considered."¹⁰⁵ While SCA welcomes recommendations for new school sites from members of the community, and has created a form for the public to submit such recommendations, many who do submit suggestions are frustrated when they do not receive any feedback or information regarding disposition of the proposed site.

The difficulty in finding school sites becomes clear in overcrowded communities such as Bay Ridge, Brooklyn (District 20), Elmhurst, Queens (District 24) and Sunset Park, Brooklyn (District 15) that must wait years for a school to be built, even when funds have been allocated in the capital plan for that purpose. District 20 in Brooklyn has an identified seat need of 10,322 seats, of which 4,869 are funded in the current capital plan; District 24 in Queens has an identified need of 9,403 seats, of which 4,885 are funded; and District 15 in Brooklyn has an identified need of 7,546 seats, of which 3,840 are funded.¹⁰⁶ These three districts have the highest need in the City, but also the greatest difficulty in finding sites for new schools.

Parents and advocates point to what they view as shortcomings in SCA's siting efforts as contributing to difficulties in finding suitable school locations. Specifically, they contend that SCA has too few staff working in their Real Estate division and only one real estate firm per borough looking for sites.¹⁰⁷ Further, they argue that SCA rarely uses eminent domain to acquire school sites.¹⁰⁸

Finally, despite the fact that the SCA was created, in part, to expedite the school construction process, elected officials and stakeholders maintain that school construction generally, and the siting process in particular, takes too long. As noted, critics contend that SCA has insufficient staff, not only to locate school sites, but to prepare the requisite EISs and facilitate the hearing and approval process in a timely manner.

Int. No. 1486-A - Bill Analysis

Since its initial hearing, the bill has received several amendments including amending the dates on which reports are required to reflect when the relevant information will become available.

Section one of Int. No. 1486-A would provide the following definitions;

"School" would mean a school of the city school district of the city of New York that contains any combination of grades from and including pre-kindergarten through grade twelve, including early education centers with which the department contracts to provide pre-kindergarten; and "student" would mean any pupil under the age of twenty-one as of September first of the school year being reported, who does not have a high school diploma and who is enrolled in a school, excluding any child who is less than four years of age on or before December thirty-first of the school year being reported.

Section one would require the Department of Education (the DOE) to submit to the Speaker of the Council, and post conspicuously on the DOE's website, the following reports including the following information:

1. By May 15, 2018 and annually thereafter, the DOE would be required to report for each community school district (CSD), the total number of individuals who (1) applied for admission to grades pre-

¹⁰⁵ SCA website, "Real Estate, FAQs" accessed on 2/21/17 at <http://www.nycsca.org/Community/Real-Estate>.

¹⁰⁶ SCA, "FY2015-2019 Five Year Proposed Capital Plan Amendment," November 2016, at 21, available at <http://www.nycsca.org/Community/Capital-Plan-Reports-Data#Capital-Plan-67>.

¹⁰⁷ Letter from Class Size Matters to City Council Speaker Melissa Mark-Viverito, December 1, 2016, on file with Education Committee staff.

¹⁰⁸ *Id.* Note that eminent domain refers to the power of the government to take private property for public use, with payment of compensation.

kindergarten, kindergarten or six in a school located in such community school district for the following school year; and (2) received an offer of admission to grades pre-kindergarten, kindergarten or six in a school located in such CSD for the following school year; and for each school, the total number of individuals who (1) applied for admission to grades pre-kindergarten, kindergarten, six or nine in such school, as applicable, for the following school year; and (2) received an offer of admission to grades pre-kindergarten, kindergarten, six or nine in such school, as applicable, for the following school year.

2. By March 15, 2019, and annually thereafter, the DOE would be required to report for each CSD, the total number of students who enrolled in grades pre-kindergarten, kindergarten or six in a school located in such CSD in the current school year; and (b) for each school, the total number of students who enrolled in grades pre-kindergarten, kindergarten, six or nine in such school, as applicable, in the current school year.

Section one would require that the above data be disaggregated, as applicable, by CSD of residence of individuals; zip code of residence of individuals; primary home language of individuals; and grade level. Section one would also require the DOE to report, by May 15, 2018 and annually thereafter, for each school, the total number of seats anticipated to be available in the following school year.

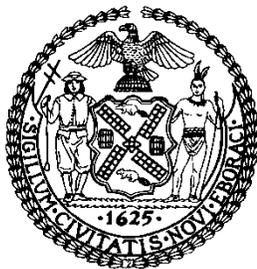
The bill would state that none of the information in the report would violate any applicable provision of federal, state or local law relating to privacy of student information or that would interfere or otherwise conflict with law enforcement investigations and interests. The bill would also clarify that if a category contains between one and five students, or contains a number that would allow the amount of another category that is five or less to be deduced therefrom, the number should be replaced with a symbol in the report.

Section two of the bill would provide that the law would take effect immediately.

Update

On December 7, 2017, the Committee passed Introduction No. 1486-A by a vote of fifteen in the affirmative, zero in the negative, with zero abstentions.

(The following is the text of the Fiscal Impact Statement for Int. No. 1486-A:)



**THE COUNCIL OF THE CITY OF NEW YORK
FINANCE DIVISION
LATONIA MCKINNEY, DIRECTOR
FISCAL IMPACT STATEMENT**

PROPOSED INTRO. NO.: 1486-A
COMMITTEE: Education

TITLE: A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report information on school applications, offers of admission, enrollment and school seats available

SPONSORS: Council Members Kallos, Gentile and Dromm

SUMMARY OF LEGISLATION: Proposed Intro. 1486-A would require the Department of Education (DOE) to report information on school applications, offers of admission, enrollment and school seats available, the number of individuals who applied for, received offers for, and enrolled in pre-kindergarten, kindergarten, sixth and ninth grade in DOE schools. The information would be reported by community school district and by individual school and be disaggregated by grade level, community school district of residence of individuals, primary home language of individuals, and zip code of individuals. Additionally, the bill would require DOE to report the anticipated seats available at each school in the following school year. The information required by the bill would be required to be reported to the Speaker of the City Council and posted on the DOE website as follows: the first required report would be due on May 15, 2018, and annually thereafter; and the second required report would be due by March 15, 2019, and annually thereafter.

EFFECTIVE DATE: This local law would take effect immediately

FISCAL YEAR IN WHICH FULL FISCAL IMPACT ANTICIPATED: Fiscal 2019

FISCAL IMPACT STATEMENT:

	Effective FY18	FY Succeeding Effective FY19	Full Fiscal Impact FY19
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: It is anticipated that this legislation would have no impact on expenditures as DOE can use existing resources to implement the provisions of the legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: None

SOURCE OF INFORMATION: New York City Finance Division; New York City Department of Education

ESTIMATE PREPARED BY: Elizabeth Hoffman, Principal Financial Analyst

ESTIMATE REVIEWED BY: Dohini Sompura, Unit Head
Rebecca Chasan, Counsel

LEGISLATIVE HISTORY: This legislation was heard as Preconsidered Introduction at a hearing held jointly by the Committees on Education and Finance on February 28, 2017 and the legislation was laid over. On March 1, 2017, the legislation was introduced to the full Council as Intro. 1486 and referred to the Committee on Education. The legislation was subsequently amended and the amended version, Proposed Intro. 1486-A, will be voted on by the Committee on Education on December 7, 2017. Upon successful vote by the Committee, Proposed Intro. 1486-A will be submitted to the full Council for a vote on December 19, 2017.

DATE PREPARED: November 28, 2017.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1486-A:)

Int. No. 1486-A

By Council Members Kallos, Gentile, Dromm, Chin, Barron, Menchaca and Treyger.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of education to report information on school applications, offers of admission, enrollment and school seats available

Be it enacted by the Council as follows:

Section 1. Title 21-A of the administrative code of the city of New York is amended by adding a new chapter 16 to read as follows:

Chapter 16. Reporting on school applications, offers of admission, enrollment and available Seats

§ 21-978 Reporting on school applications, offers of admission, enrollment and available seats.

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

School. The term "school" means a school of the city school district of the city of New York that contains any combination of grades from and including pre-kindergarten through grade twelve, including early education centers with which the department contracts to provide pre-kindergarten.

Student. The term "student" means any pupil under the age of twenty-one as of September first of the school year being reported, who does not have a high school diploma and who is enrolled in a school, excluding any child who is less than four years of age on or before December thirty-first of the school year being reported.

b. The department shall submit to the speaker of the council, and post conspicuously on the department's website, the following reports regarding application, offer, available seat and enrollment information:

1. Not later than May 15, 2018, and annually thereafter on or before May 15, a report including, but not limited to (a) for each community school district, the total number of individuals who (1) applied for admission to grades pre-kindergarten, kindergarten or six in a school located in such community school district for the following school year; and (2) received an offer of admission to grades pre-kindergarten, kindergarten or six in a school located in such community school district for the following school year; and (b) for each school, the total number of individuals who (1) applied for admission to grades pre-kindergarten, kindergarten, six or nine in such school, as applicable, for the following school year; and (2) received an offer of admission to grades pre-kindergarten, kindergarten, six or nine in such school, as applicable, for the following school year;

2. Not later than March 15, 2019, and annually thereafter on or before March 15, a report including, but not limited to (a) for each community school district, the total number of students who enrolled in grades pre-kindergarten, kindergarten or six in a school located in such community school district in the current school year; and (b) for each school, the total number of students who enrolled in grades pre-kindergarten, kindergarten, six or nine in such school, as applicable, in the current school year.

The data required to be reported pursuant to this subdivision b shall be disaggregated by (i) community school district of residence of individuals or students, as applicable; (ii) zip code of residence of individuals or students, as applicable; (iii) primary home language of individuals or students, as applicable and (iv) grade level.

c. Not later than May 15, 2018, and annually thereafter on or before May 15, the department shall submit to the speaker of the council and post conspicuously on the department's website a report that shall include, but not be limited to, for each school, the total number of seats anticipated to be available in the following school year.

d. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of student information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement. If a category contains between 1 and 5 students, or contains an amount that would allow the amount of another category that is five or less to be deduced, the number shall be replaced with a symbol.

§ 2. This local law takes effect immediately.

DANIEL DROMM, *Chairperson*; VINCENT J. GENTILE, DANIEL R. GARODNICK, MARGARET S. CHIN, STEPHEN T. LEVIN, DEBORAH L. ROSE, INEZ D. BARRON, CHAIM M. DEUTSCH, MARK LEVINE, ALAN N. MAISEL, ANTONIO REYNOSO, HELEN K. ROSENTHAL, MARK TREYGER; BEN KALLOS, RAFAEL SALAMANCA, Jr.; Committee on Education, December 7 , 2017. *Other Council Members Attending: Council Members Torres and Mendez.*

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. 828 & Res. No. 1768

Report of the Committee on Land Use in favor of approving Application No. 20185128 HAX submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for property located at Block 3672, part of Lot 1 (tentative Lot 20), Borough of the Bronx, Community District 9, Council District 18.

The Committee on Land Use, to which the preconsidered annexed Land Use item was referred on December 11, 2017 (Minutes, page 4713) and which was laid over by the Council at the December 11, 2017 Stated Meeting (Minutes, page 4653), and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 9

20185128 HAX

Application submitted by the New York City Department of Housing Preservation and Development for approval of a real property tax exemption pursuant to Article XI of the Private Housing Finance Law for property located at Block 3672, p/o Lot 1 (Tentatively Lot 20), Community District 9, Council District 18.

INTENT

To approve a real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law that is conterminous with the forty-year term of the new regulatory agreement and terminate the prior exemption.

PUBLIC HEARING

DATE: December 4, 2017

Witnesses in Favor: One

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION**DATE:** December 4, 2017

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:

Richards, Gentile, Garodnick, Reynoso, Grodenchik.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Salamanca offered the following resolution:

Res. No. 1768

Resolution approving a new tax exemption pursuant to Article XI of the Private Housing Finance Law and termination of the prior exemption for property located at Block 3672, p/o Lot 1 (tentative Lot 20), Borough of the Bronx, (Preconsidered L.U. No. 828; Non-ULURP No. 20185128 HAX).

By Council Members Greenfield and Salamanca.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on December 1, 2017 its request dated December 1, 2017 that the Council approve a new exemption from real property taxes pursuant to Section 577 of Article XI of the Private Housing Finance Law and termination of the prior exemption (the "Tax Exemption Request") for property located at Block 3672, p/o Lot 1 (Tentative Lot 20), Community District No. 9, Borough of the Bronx, Council District No. 18 (the "Exemption Area");

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption Request on December 4, 2017;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Tax Exemption Request;

RESOLVED:

Pursuant to Section 577 of the Private Housing Finance Law, the Council approves an exemption of the Exemption Area from real property taxes as follows:

- a) For the purposes hereof, the following terms shall have the following meanings:
 1. "Company" shall mean PL MM LLC.
 2. "Effective Date" shall mean the later of (i) the date of conveyance of the Exemption Area to the HDFC, or (ii) the date that HPD and the New Owner enter into the Regulatory Agreement.
 3. "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 3762, p/o Lot 1 (tentative lot 20) on the Tax Map of the City of New York.
 4. "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 5. "HDFC" shall mean HP Park Lane Family Housing Development Fund Company, Inc. or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 6. "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 7. "New Owner" shall mean, collectively, the HDFC and the Company.
 8. "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
 9. "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on March 21, 1968 (Cal. No.6-A), as extended by the Council on June 7, 2004 (Resolution No. 388-A).
- b) The Prior Exemption shall terminate upon the Effective Date.
- c) 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, commercial or community facility 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.
- d) Notwithstanding any provision hereof to the contrary:
 1. The New Exemption shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the 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) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the New

- Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.
2. The New Exemption shall apply to all land in the Exemption Area, but shall only apply to a building on the Exemption Area that has a permanent certificate of occupancy or a temporary certificate of occupancy for all of the residential areas on or before five years from the Effective Date.
 3. Nothing herein shall entitle the HDFC, the New Owner, or any past owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
 4. All previous resolutions, if any, providing an exemption from or abatement of real property taxation with respect to the Exemption Area are hereby revoked as of the Effective Date.
- e) 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.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017. *Other Council Members Attending: Council Members Perkins and Chin...*

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. 829 & Res. No. 1769

Report of the Committee on Land Use in favor of approving Application No. 20185129 HAX submitted by the Department of Housing Preservation and Development pursuant to Article XI of the Private Housing Finance Law for approval of a new real property tax exemption for property located at Block 3672, Lot 1, Borough of the Bronx, Community District 9, Council District 18.

The Committee on Land Use, to which the annexed preconsidered Land Use item was referred on December 11, 2017 (Minutes, page 4714) and which was laid over by Council at the December 11, 2017 Stated Meeting, (Minutes, page 4656), and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 9

20185129 HAX

Application submitted by the New York City Department of Housing Preservation and Development for approval of a real property tax exemption pursuant to Article XI of the Private Housing Finance Law for property located at Block 3672, Lot 1, Community District 9, Council District 18.

INTENT

To approve a real property tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law that is conterminous with the forty-year term of the new regulatory agreement and terminate the prior exemption.

PUBLIC HEARING

DATE: December 4, 2017

Witnesses in Favor: One

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: December 4, 2017

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:

Richards, Gentile, Garodnick, Reynoso, Grodenchik.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Salamanca offered the following resolution:

Res. No. 1769

Resolution approving a new tax exemption pursuant to Section 577 of Article XI of the Private Housing Finance Law and terminating the prior tax exemption for property located at Block 3672, Lot 1, Borough of the Bronx, (Preconsidered L.U. No. 829; Non-ULURP No. 20185129 HAX).

By Council Members Greenfield and Salamanca.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on December 1, 2017 its request dated December 1, 2017 that the Council approve a new exemption from real property taxes pursuant to Section 577 of Article XI of the Private Housing Finance Law and terminating the prior exemption (the "Tax Exemption Request") for property located at Block 3672, Lot 1, Community District No. 9, Borough of the Bronx, Council District No. 18 (the "Exemption Area");

WHEREAS, upon due notice, the Council held a public hearing on the Tax Exemption Request on December 4, 2017;

WHEREAS, the Council has considered the land use and financial implications and other policy issues relating to the Tax Exemption Request;

RESOLVED:

Pursuant to Section 577 of the Private Housing Finance Law, the Council approves an exemption of the Exemption Area from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:
 - a) "Company" shall mean PL Preservation LLC.
 - b) "Current Owner" shall mean, collectively, Pacla Apartments, Inc. and Park Lane Residence Co.
 - 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 New Owner enter into the Regulatory Agreement.
 - d) "Exemption Area" shall mean the real property located in the Borough of the Bronx, City and State of New York, identified as Block 3672, Lot 1 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 forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
 - f) "HDFC" shall mean HP Park Lane Preservation Housing Development Fund Company, Inc. or a housing development fund company that acquires the Exemption Area with the prior written consent of HPD.
 - g) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
 - h) "New Exemption" shall mean the exemption from real property taxation provided hereunder with respect to the Exemption Area.
 - i) "New Owner" shall mean, collectively, the HDFC and the Company.
 - j) "Prior Exemption" shall mean the exemption from real property taxation for the Exemption Area approved by the Board of Estimate on March 21, 1968 (Cal. No.6-A), as extended by the Council on June 7, 2004 (Resolution No. 388-A).
 - k) "Regulatory Agreement" shall mean the regulatory agreement between HPD and the New Owner establishing certain controls upon the operation of the Exemption Area during the term of the New Exemption.

- l) “Gross Rent” shall mean the gross potential rents from all residential units (both occupied and vacant) of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance).
 - m) “Gross Rent Tax” shall mean an amount equal to three quarters of one percent (.75%) of Gross Rent in the tax year in which such real property tax payment is made.
2. The Prior Exemption shall terminate upon 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, commercial, or community facility 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. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the New Owner shall make real property tax payments in the sum of the Gross Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the New Owner shall not at any time exceed the amount of real property taxes that would otherwise be due in the absence of any form of exemption from or abatement of real property taxation provided by any existing or future local, state, or federal law, rule or regulation.
5. 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) any interest in the Exemption Area is conveyed or transferred to a new owner without the prior written approval of HPD, or (v) the construction or demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the New Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.
 - b) The New Exemption shall apply to all land in the Exemption Area, but shall only apply to a building on the Exemption Area that exists on the Effective Date.
 - c) Nothing herein shall entitle the HDFC, the New Owner or any past owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.
 - d) All previous resolutions, if any, providing an exemption from or abatement of real property taxation with respect to the Exemption Area are hereby revoked as of the Effective Date.
6. In consideration of the New Exemption, the owner of the Exemption Area shall, for so long as the New Exemption shall remain in effect, waive the benefits of any additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state or federal law, rule or regulation.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, YDANIS A. RODRIGUEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER;

BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017.
Other Council Members Attending: Council Members Perkins and Chin.

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. 800 & Res. No. 1792

Report of the Committee on Land Use in favor of approving Application No. C 170392 ZMX submitted by submitted by the Park Lane Residence Co. pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 7a, changing an R6 district to an R8/C2-4 district on property located on White Plains Road between Turnbull Avenue and Lafayette Avenue, Borough of the Bronx, Community Board 9, Council District 18.

The Committee on Land Use, to which the annexed Land Use item was referred on October 31, 2017 (Minutes, page 3912) and which was previously brought before the Council at the December 11, 2017 Stated Meeting (Minutes, page 4639) and referred to the City Planning Commission; and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 9

C 170392 ZMX

City Planning Commission decision approving an application submitted by the Park Lane Residence Co. pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 7a.

INTENT

To approve an amendment to the Zoning Map, which in conjunction with the related action would facilitate the development of two new mixed-use buildings at 1965 Lafayette Avenue, containing approximately 425 affordable dwelling units, in the Soundview neighborhood of the Bronx.

PUBLIC HEARING

DATE: November 14, 2017

Witnesses in Favor: Five

Witnesses Against: One

SUBCOMMITTEE RECOMMENDATION

DATE: December 4, 2017

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

In Favor:

Richards, Gentile, Garodnick, Reynoso, Grodenchik.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1792

Resolution approving the decision of the City Planning Commission on ULURP No. C 170392 ZMX, a Zoning Map change (L.U. No. 800).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on October 20, 2017 its decision dated October 18, 2017 (the "Decision"), on the application submitted by Park Lane Residence Co., pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map, Section No. 7a, changing from an R6 District to R8 and R8/C2-4 Districts, which in conjunction with the related action would facilitate the development of two new mixed-use buildings containing approximately 425 affordable dwelling units in the Soundview neighborhood of the Bronx, (ULURP No. C 170392 ZMX), Community District 9, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to application N 170393 ZRX (L.U. No. 801), a zoning text amendment to designate a Mandatory Inclusionary Housing (MIH) area; 20185128 HAX (Preconsidered L.U. No. 828);

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 14, 2017;

WHEREAS, the Council has considered the land use and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the revised environmental assessment statement and revised conditional negative declaration issued October 13, 2017 (CEQR No. 17DCP172X), which includes an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-434) (the “Revised Environmental Assessment Statement” and the “Revised Conditional Negative Declaration”);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Environmental Assessment Statement and the Revised Conditional 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 the report C 170392 ZMX, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 7a:

1. changing from an R6 District to an R8 District property bounded by Turnbull Avenue, a line 250 feet westerly of Pugsley Avenue, Lafayette Avenue, and White Plains Road; and
2. establishing within the proposed R8 District a C2-4 District bounded by Turnbull Avenue, a line 200 feet easterly of White Plains Road, Lafayette Avenue, and White Plains Road.

as shown on a diagram (for illustrative purposes only) dated June 5, 2017, and subject to the conditions of CEQR Declaration E-434, Community District 9, Borough of the Bronx.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017. *Other Council Members Attending: Council Members Perkins and Chin.*

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. 801 & Res. No. 1793

Report of the Committee on Land Use in favor of approving Application No. N 170393 ZRX submitted by submitted by the Park Lane Residence Co. pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, for the purpose of

establishing a Mandatory Inclusionary Housing area, Borough of the Bronx, Community Board 9, Council District 18.

The Committee on Land Use, to which the annexed Land Use item was referred on October 31, 2017 (Minutes, page 3912) and which was previously before the Council at the December 11, 2017 Stated Meeting (Minutes, page 4640) and referred to the City Planning Commission; and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 9

N 170393 ZRX

City Planning Commission decision approving an application submitted by Park Lane Residence Co., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

INTENT

To approve the amendment to the text of the Zoning Resolution, which in conjunction with the related action would facilitate the development of two new mixed-use buildings at 1965 Lafayette Avenue, containing approximately 425 affordable dwelling units, in the Soundview neighborhood of the Bronx.

PUBLIC HEARING

DATE: November 14, 2017

Witnesses in Favor: Five

Witnesses Against: One

SUBCOMMITTEE RECOMMENDATION

DATE: December 4, 2017

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

In Favor:

Richards, Gentile, Garodnick, Reynoso, Grodenchik.

Against:
None

Abstain:
None

COMMITTEE ACTION

DATE: December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on December 8, 2017. The City Planning Commission filed a letter dated December 15, 2017, with the Council on December 15, 2017, indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1793

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 170393 ZRX, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, Community District 9, Borough of the Bronx (L.U. No. 801).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on October 20, 2017 its decision dated October 18, 2017 (the "Decision"), on the application submitted by Park Lane Residence Co., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area at 1965 Lafayette Avenue (Block 3672, Lot 1). This amendment to the text of the Zoning Resolution, in conjunction with the related action would facilitate the development of two new mixed-use buildings containing approximately 425 affordable dwelling units in the Soundview neighborhood of the Bronx (Application No. N 170393 ZRX), Community District 9, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to application C 170392 ZMX (L.U. No. 800), and a zoning map amendment to change an R6 zoning district to R8 and R8/C2-4 districts;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 14, 2017;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the revised environmental assessment statement and revised conditional negative declaration issued October 13, 2017 (CEQR No. 17DCP172X), which includes an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-434) (the “Revised Environmental Assessment Statement” and the “Revised Conditional Negative Declaration”);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Environmental Assessment Statement and the Revised Conditional 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 the report, N 170393 ZRX, incorporated by reference herein, the Council approves the Decision of the City Planning Commission with the following modifications:

- Matter underlined is new, to be added;
- Matter ~~struck out~~ is to be deleted;
- Matter within # # is defined in Section 12-10;
- Matter ~~double strike out~~ is old, deleted by the City Council;
- Matter double underlined is new, added by the City Council;
- * * * indicates where unchanged text appears in the Zoning Resolution.

* * *

**APPENDIX F
Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas**

* * *

THE BRONX

* * *

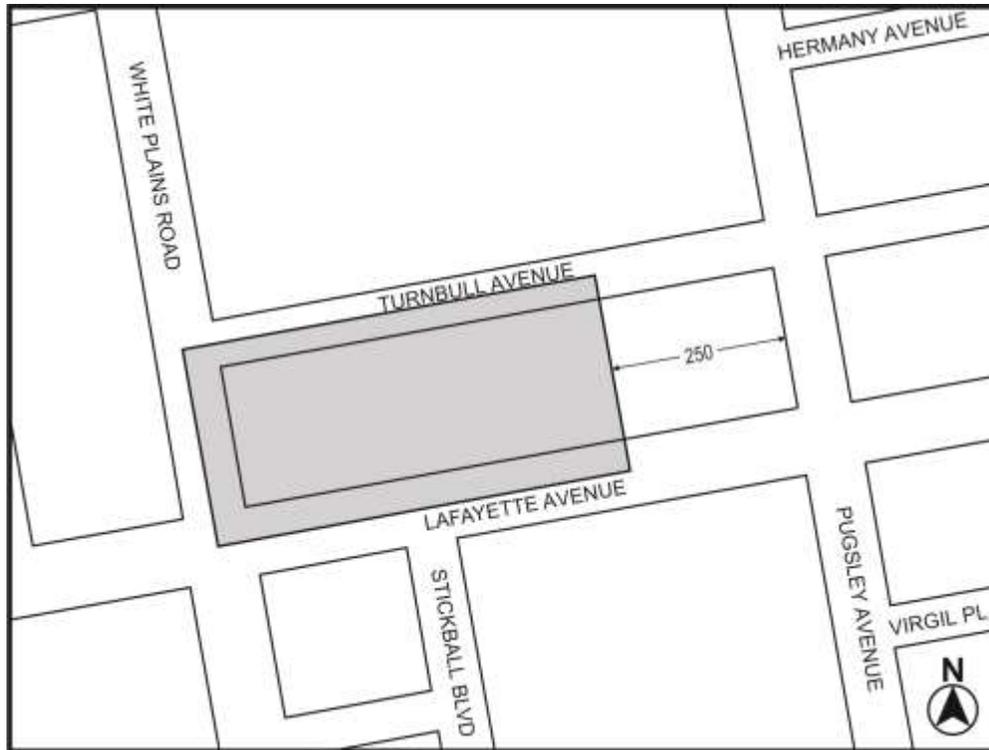
The Bronx Community District 9

* * *

In the R8 District within the area shown on the following Map 3:

Map 3 - [date of adoption]

[PROPOSED MAP]



Mandatory Inclusionary Housing Program Area *see Section 23-154(d)(3)*
Area 3 - [date of adoption] MIH Program Option 1 ~~and Option 2~~

Portion of Community District 9, The Bronx

* * *

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017. *Other Council Members Attending: Council Members Perkins and Chin.*

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. 802 & Res. No. 1794

Report of the Committee on Land Use in favor of approving Application No. C 170445 ZMX submitted by submitted by 1776 Eastchester Realty LLC, Hutch 34 Industrial Street, LLC and Hutch 35 LLC pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning

Map, Section No. 4a and 4b, changing an M1-1 district to R5, C4-2 and C4-2A districts on property located at 1776 Eastchester Road, Borough of the Bronx, Community Board 11, Council District 13.

The Committee on Land Use, to which the annexed Land Use item was referred on October 31, 2017 (Minutes, page 3912) and which was previously before the Council at the December 11, 2017 Stated Meeting (Minutes, page 4642) and referred to the City Planning Commission; and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 11

C 170445 ZMX

City Planning Commission decision approving an application submitted by 1776 Eastchester Realty LLC, Hutch 34 Industrial Street, LLC and Hutch 35 LLC pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section Nos. 4a and 4b.

INTENT

To approve the amendment to the Zoning Map, changing an M1-1 zoning district to R5, C4-2 and C4-2A districts, which in conjunction with the related actions, would facilitate the development of approximately 182 units of non-profit hospital staff housing on top of an existing parking garage and designate a Mandatory Inclusionary Housing (MIH) area.

PUBLIC HEARING

DATE: November 14, 2017

Witnesses in Favor: Four

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: December 4, 2017

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

In Favor:

Richards, Gentile, Garodnick, Reynoso, Grodenchik.

Against:
None

Abstain:
None

COMMITTEE ACTION**DATE:** December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

Williams

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on December 8, 2017. The City Planning Commission filed a letter dated December 15, 2017, with the Council on December 15, 2017, indicating that the proposed modification is not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1794

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 170445 ZMX, a Zoning Map amendment (L.U. No. 802).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on October 20, 2017 its decision dated October 18, 2017 (the "Decision"), on the application submitted by 1776 Eastchester Realty LLC, Hutch 34 Industrial Street, LLC and Hutch 35 LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section Nos. 4a and 4b, changing an M1-1 District to R5, C4-2 and C4-2A Districts, which in conjunction with the related actions, would facilitate the development of approximately 182 units of non-profit hospital staff housing on top of an existing parking garage and designate a Mandatory Inclusionary Housing (MIH) area in the eastern edge of the Morris Park neighborhood in the northeast region of the Bronx, (ULURP No. C 170445 ZMX), Community District 11, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to applications N 170446 ZRX (L.U. No. 803), zoning text amendment to allow non-profit hospital staff dwellings and to designate a Mandatory Inclusionary Housing (MIH) area; and C 170447 ZSX (L.U. No. 804), zoning special permit to allow for construction of non-profit hospital staff dwellings;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 14, 2017;

WHEREAS, the Council has considered the land use and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the revised environmental assessment statement and negative declaration issued October 13, 2017 (CEQR No. 17DCP165X), which includes an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-436) (the “Revised Environmental Assessment Statement” and the “Revised Negative Declaration”);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Environmental Assessment Statement and the Revised Negative Declaration.

Pursuant to Section 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 the report, C 170445 ZMX, incorporated by reference herein, the Council approves the Decision of the City Planning Commission with the following modifications:

Matter ~~strike out~~ is old, deleted by the City Council;
Matter underline is new, added by the City Council.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 4a and 4b:

1. changing from an M1-1 District to an R5 District property bounded by the centerline of former Morris Park Avenue, the southerly prolongation of a Railroad Right-Of-Way, Waters Place, and Marconi Street; and
2. changing from an M1-1 District to a C4-2 District property bounded by the centerline of former Morris Park Avenue, Marconi Street, a line 900 feet southerly of the centerline of former Morris Park Avenue and its westerly prolongation, and the northwesterly boundary of the New York New Haven Railroad Right-Of-Way; ~~and~~
3. ~~changing from an M1-1 District to a C4-2A District property bounded by a line 900 feet southerly of the former centerline of Morris Park Avenue and its westerly prolongation, Marconi Street, Waters Place, Eastchester Road, and the northwesterly boundary of the New York New Haven Railroad Right Of Way;~~

Borough of the Bronx, Community District 11, subject to the conditions of CEQR Declaration E-436.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017. *Other Council Members Attending: Council Members Perkins and Chin.*

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. 803 & Res. No. 1795

Report of the Committee on Land Use in favor of approving Application No. N 170446 ZRX submitted by submitted by 1776 Eastchester Realty LLC, Hutch 34 Industrial Street, LLC and Hutch 35 LLC pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of the Bronx, Community Board 11, Council District 13.

The Committee on Land Use, to which the annexed Land Use item was referred on October 31, 2017 (Minutes, page 3913) and which was previously before the Council at the December 11, 2017 Stated Meeting (Minutes, page 4643) and referred to the City Planning Commission; and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 11

N 170446 ZRX

City Planning Commission decision approving an application submitted by 1776 Eastchester Realty LLC, Hutch 34 Industrial Street, LLC and Hutch 35 LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to modify the text of the special permit for non-profit hospital staff dwellings in Article VII, Chapter 4, and to modify Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

INTENT

To approve the amendment to the text of the Zoning Resolution, which in conjunction with the related actions, would facilitate the development of approximately 182 units of non-profit hospital staff housing on top of an existing parking garage and designate a Mandatory Inclusionary Housing (MIH) area.

PUBLIC HEARING

DATE: November 14, 2017

Witnesses in Favor: Four

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION**DATE:** December 4, 2017

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

In Favor:

Richards, Gentile, Garodnick, Reynoso, Grodenchik.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

Williams

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on December 8, 2017. The City Planning Commission filed a letter dated December 15, 2017, with the Council on December 15, 2017, indicating that the proposed modification is not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1795

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 170446 ZRX, for an amendment of the Zoning Resolution of the City of New York, to modify the text of the special permit for non-profit hospital staff dwellings in Article VII, Chapter 4, and to modify Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area in Community District 11, Borough of the Bronx (L.U. No. 803).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on October 20, 2017 its decision dated October 18, 2017 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding the application submitted by 1776 Eastchester Realty LLC, Hutch 34 Industrial Street, LLC and Hutch 35 LLC, for an amendment of the text of the Zoning Resolution of the City of New York, to modify the text of the special permit for non-profit hospital staff dwellings in Article VII, Chapter 4, and to modify Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area. This zoning text amendment in conjunction with the related actions would facilitate the development of 182 units of non-profit hospital staff housing above an existing parking garage (Application No. N 170446 ZRX), Community District 11, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to applications C 170445 ZMX (L.U. No. 802), zoning map amendment to change an M1-1 district to R5, C4-2, and C4-2A districts; and C 170447 ZSX (L.U. No. 804), zoning special permit to allow for construction of non-profit hospital staff dwellings;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 14, 2017;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the revised environmental assessment statement and negative declaration issued October 13, 2017 (CEQR No. 17DCP165X), which includes an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-436) (the "Revised Environmental Assessment Statement" and the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Environmental Assessment Statement and the Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 170446 ZRX, incorporated by reference herein, the Council approves the Decision of the City Planning Commission with the following modifications:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

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

Matter ~~double strike out~~ is old, deleted by the City Council;

Matter double underlined is new, added by the City Council;

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

**ARTICLE VII
ADMINISTRATION**

**Chapter 4
Special Permits by the City Planning Commission**

* * *

**74-70
NON-PROFIT HOSPITAL STAFF DWELLINGS**

The City Planning Commission may permit #non-profit hospital staff dwellings# in accordance with the conditions of paragraph (a) of this Section, provided that the findings of paragraph (b) are met.

(a) The Commission may permit:

- (1) ~~In~~ in all #Residence Districts#, or in C1, C2, C3, C4, C5, C6 or C7 Districts, ~~the City Planning Commission may permit #non-profit hospital staff dwellings# located on a #zoning lot#, no portion of which is located more than 1,500 feet from the non-profit or voluntary hospital and related facilities, provided that the following findings are made:; or~~
- (2) in C4-2 Districts without a letter suffix, in Community District 11 in the Borough of the Bronx, #non-profit hospital staff dwellings# on #zoning lots# located not more than 1,500 feet from the non-profit or voluntary hospital and related facilities.

(b) To permit such #non-profit hospital staff dwellings#, the Commission shall find:

- ~~(a)~~(1) that the #bulk# of such #non-profit hospital staff dwelling# and the density of population housed on the site will not impair the essential character or the future use or development of the surrounding area; and
- ~~(b)~~(2) that the number of #accessory# off-street parking spaces provided for such #use# will be sufficient to prevent undue congestion of #streets# by such #use#.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

APPENDIX F

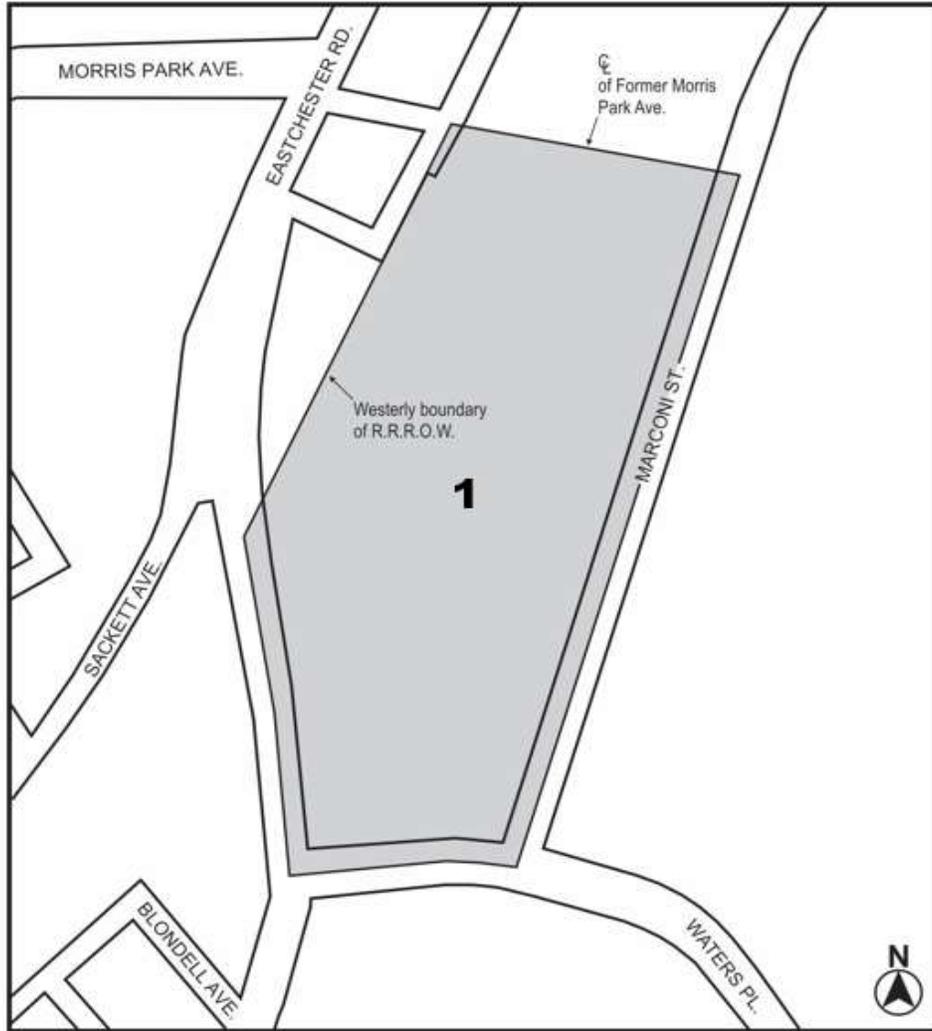
Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

THE BRONX

* * *

The Bronx Community District 11
Map 1- [date of adoption]

[PROPOSED MAP]



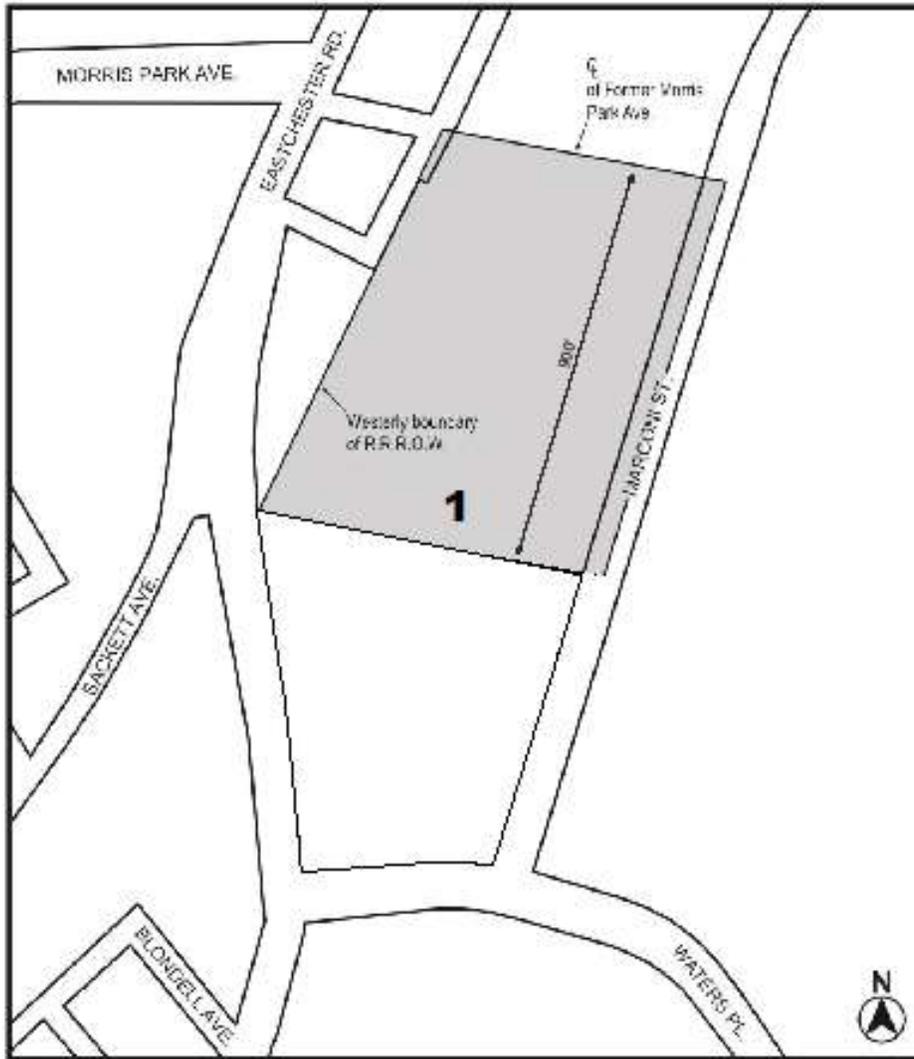
■ Mandatory Inclusionary Housing Area (MIHA) see Section 23-154(d)(3)

Area 1 — [date of adoption] — MIH Program Option 1 and Option 2

Portion of Community District 11, The Bronx

* * *

[City Council Modified Map]



 Mandatory Inclusionary Housing Area (MIHA)- see Section 23-154(d)(3)

1 Area 1 — [date of adoption] — MIH Program ~~Option 1 and Option 2~~

Portion of Community District 11, The Bronx

* * *

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017. *Other Council Members Attending: Council Members Perkins and Chin.*

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. 804 & Res. No. 1796

Report of the Committee on Land Use in favor of approving Application No. C 170447 ZSX submitted by submitted by 1776 Eastchester Realty LLC, Hutch 34 Industrial Street, LLC and Hutch 35 LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-70(a)(2) of the Zoning Resolution to allow for a non-profit hospital staff dwelling to be located on property at 1776 Eastchester Road, Borough of the Bronx, Community Board 11, Council 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).

The Committee on Land Use, to which the annexed Land Use item was referred on October 31, 2017 (Minutes, page 3913) and which was previously brought before the Council at the December 11, 2017 Stated Meeting (Minutes, page 4645) and referred to the City Planning Commission; and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT

BRONX CB - 11

C 170447 ZSX

City Planning Commission decision approving an application submitted by 1776 Eastchester Realty LLC, Hutch 34 Industrial Street, LLC and Hutch 35 LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-70(a)(2) of the Zoning Resolution to allow non-profit hospital staff dwellings to be located not more than 1,500 feet from a non-profit or voluntary hospital and related facilities to facilitate the construction of a 12-story non-profit hospital staff dwelling building, on property located at 1776 Eastchester Road (Block 4226, Lots 1101 and 1102), in a C4-2 District.

INTENT

To approve the grant for the Special Permit pursuant to Section 74-70(a)(2) of the ZR, which in conjunction with the related actions, would facilitate the development of approximately 182 units of non-profit hospital staff housing on top of an existing parking garage and designate a Mandatory Inclusionary Housing (MIH) area.

PUBLIC HEARING**DATE:** November 14, 2017**Witnesses in Favor:** Four**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** December 4, 2017

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

In Favor:

Richards, Gentile, Garodnick, Reynoso, Grodenchik.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

Williams

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1796

Resolution approving the decision of the City Planning Commission on ULURP No. C 170447 ZSX (L.U. No. 804), for the grant of a special permit pursuant to Section 74-70(a)(2) of the Zoning Resolution of the City of New York to allow non-profit hospital staff dwellings to be located not more than 1,500 feet from a non-profit or voluntary hospital and related facilities to facilitate the construction of a 12-story non-profit hospital staff dwelling building, on property located at 1776 Eastchester

Road (Block 4226, Lots 1101 and 1102), in a C4-2 District, Community District 11, Borough of the Bronx.

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on October 20, 2017 its decision dated October 18, 2017 (the "Decision"), on the application submitted by 1776 Eastchester Realty LLC, Hutch 34 Industrial Street, LLC and Hutch 35 LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-70(a)(2) of the Zoning Resolution of the City of New York to allow non-profit hospital staff dwellings to be located not more than 1,500 feet from a non-profit or voluntary hospital and related facilities to facilitate the construction of a 12-story non-profit hospital staff dwelling building, on property located at 1776 Eastchester Road (Block 4226, Lots 1101 and 1102), in a C4-2 District, (ULURP No. C 170447 ZSX), Community District 11, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to applications C 170445 ZMX (L.U. No. 802), zoning map amendment to change an M1-1 district to R5, C4-2, and C4-2A districts; and N 170446 ZRX (L.U. No. 803), zoning text amendment to allow non-profit hospital staff dwellings and to designate a Mandatory Inclusionary Housing (MIH) area;

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 74-70 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 November 14, 2017;

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, including the revised environmental assessment statement and negative declaration issued October 13, 2017 (CEQR No. 17DCP165X), which includes an (E) designation to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-436) (the "Revised Environmental Assessment Statement" and the "Revised Negative Declaration");

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment as set forth in the Revised Environmental Assessment Statement and the Revised Negative Declaration.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 170447 ZSX, incorporated by reference herein, the Council approves the Decision of the City Planning Commission subject to the following conditions:

- 1) The property that is the subject of this application (C 170447 ZSX) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Newman Architects, filed with this application and incorporated in this resolution:

<u>Dwg. No.</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-001.00	Zoning Analysis Chart	5-22-17
Z-002.00	Zoning Analysis	5-22-17
Z-003.00	Overall Site Plan Zoning Lot	5-22-17
A-001.00	Site Plan	5-22-17

- 2) Such development shall confirm to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plan 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, operation 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, sublessee or occupant.
- 5) Upon 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 whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.
- 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 failure to act in accordance with the provisions of this special permit.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017. *Other Council Members Attending: Council Members Perkins and Chin.*

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 in favor of approving Application No. N 170442 ZMM submitted by submitted by NBT Victory Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 6a, changing a C4-4A district to a C4-7 district on property located 5th Avenue between Dr. Martin Luther King Boulevard and East 126th Street, Borough of the Manhattan, Community Board 11, Council District 9.

The Committee on Land Use, to which the annexed Land Use item was referred on October 31, 2017 (Minutes, page 3913) and which was previously before the Council at the December 11, 2017 Stated Meeting (Minutes, page 4647) and referred to the City Planning Commission; and which same Land Use item was coupled with the resolution shown below respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 11

C 170442 ZMM

City Planning Commission decision approving an application submitted by NBT Victory Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 6a, changing from a C4-4A District to a C4-7 District property bounded by Fifth Avenue, East 126th Street, a line 85 feet easterly of Fifth Avenue, and East 125th Street/Dr. Martin Luther King Jr. Boulevard and subject to the conditions of CEQR Declaration E-435.

INTENT

To approve the amendment to the Zoning Map, which in conjunction with the related actions would facilitate development of a new, 20-story mixed-use building comprising new performance space for the National Black Theater, mixed-income housing and retail space in the East Harlem section of Manhattan.

PUBLIC HEARING

DATE: November 14, 2017

Witnesses in Favor: Ten

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: December 4, 2017

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

In Favor:

Richards, Gentile, Garodnick, Reynoso, Grodenchik.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:

None

Abstain:

None

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1797

Resolution approving the decision of the City Planning Commission on ULURP No. C 170442 ZMM, a Zoning Map amendment (L.U. No. 805).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on October 20, 2017 its decision dated October 18, 2017 (the "Decision"), on the application submitted by NBT Victory Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 6a, changing from a C4-4A District to a C4-7 District. This amendment would facilitate the development of a new 20-story mixed-use building including new performance space for the National Black Theater, mixed-income housing and retail space (ULURP No. C 170442 ZMM), Community District 11, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to applications N 170443 ZRM (L.U. No. 806), a zoning text amendment to designate a Mandatory Inclusionary Housing area and C 170444 ZSM, a special permit to waive accessory off-street parking within a Transit Zone (L.U. No. 807) ;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 14, 2017;

WHEREAS, the Council has considered the land use and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued June 5, 2017 (CEQR No. 17DCP134M), which included (E) designations to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-435) (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 Section 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 the report, C 170442 ZMM, incorporated by reference herein, the Council approves the Decision of the City Planning Commission.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is hereby amended by changing the Zoning Map, Section No. 6a, from a C4-4A District to a C4-7 District property bounded by Fifth Avenue, East 126th Street, a line 85 feet easterly of Fifth Avenue, and East 125th Street/Dr. Martin Luther King Jr. Boulevard, Borough of Manhattan, Community District 11, as shown on a diagram (for illustrative purposes only) dated June 5, 2017, and subject to the conditions of CEQR Declaration E-435.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017. *Other Council Members Attending: Council Members Perkins and Chin.*

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).

L.U. No. 806 & Res. No. 1798

Report of the Committee on Land Use in favor of approving Application No. N 170443 ZRM submitted by submitted by NBT Victory Development 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 7 (Special 125th Street District) to establish regulations for the proposed C4-7 district and for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of the Manhattan, Community Board 11, Council District 9.

The Committee on Land Use, to which the annexed Land Use item was referred on October 31, 2017 (Minutes, page 3913) and which was previously before the Council at the December 11, 2017 Stated Meeting (Minutes, page 4648) and referred to the City Planning Commission; and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

SUBJECT**MANHATTAN CB - 11****N 170443 ZRM**

City Planning Commission decision approving an application submitted by NBT Victory Development 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 7 (Special 125th Street District) to establish regulations for a proposed C4-7 District, and to modify Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area.

INTENT

To approve the amendment to the text of the Zoning Resolution, which in conjunction with the related actions would facilitate development of a new, 20-story mixed-use building comprising new performance space for the National Black Theater, mixed-income housing and retail space in the East Harlem section of Manhattan.

PUBLIC HEARING**DATE:** November 14, 2017**Witnesses in Favor:** Ten**Witnesses Against:** None**SUBCOMMITTEE RECOMMENDATION****DATE:** December 4, 2017

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

In Favor:

Richards, Gentile, Garodnick, Reynoso, Grodenchik.

Against:

None

Abstain:

None

COMMITTEE ACTION**DATE:** December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Grodenchik, Salamanca.

Against:
None

Abstain:
None

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on December 8, 2017. The City Planning Commission filed a letter dated December 15, 2017, with the Council on December 15, 2017, indicating that the proposed modification is not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1798

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 170443 ZRM, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 7 (Special 125th Street District) to establish regulations for a proposed C4-7 District, and to modify Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area, Borough of Manhattan, Community District 11. (L.U. No. 806).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on October 20, 2017 its decision dated October 18, 2017 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by NBT Victory Development LLC, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 7 (Special 125th Street District) to establish regulations for a proposed C4-7 District, and to modify Appendix F for the purpose of establishing a Mandatory Inclusionary Housing area. The amendment to the text of the Zoning Resolution, in conjunction with the related action would facilitate the development of a 20-story mixed-use building including new performance space for the National Black Theater, mixed-income housing and retail space. (Application No. N 170443 ZRM), Community District 11, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to applications C 170442 ZMM (L.U. No. 805), a zoning map amendment to change a C4-4A District to a C4-7 District and C 170444 ZSM (L.U. No. 807), a special permit to waive required accessory parking spaces within an income-restricted residential development.;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 14, 2017;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the negative declaration issued June 5, 2017 (CEQR No. 17DCP134M.), which included (E) designations to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-435) (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 the report, C 170443 ZRM, incorporated by reference herein, the Council approves the Decision of the City Planning Commission with the modifications.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently modified, is further amended as follows:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

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

Matter in ~~double strike out~~ is old, deleted by the City Council;

Matter in double underline is new, added by the City Council;

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

* * *

NOTE: Section titles and provisions in the following Chapter may reflect the proposed text amendment, East Harlem Rezoning (ULURP No. N 170359 ZRM).]

ARTICLE IX: SPECIAL PURPOSE DISTRICTS**Chapter 7 – Special 125th Street District****97-00****GENERAL PURPOSES**

* * *

97-03**District Plan and Maps**

The regulations of this Chapter are designed to implement the #Special 125th Street District# Plan. The District Plan, including Map 1 (Special 125th Street District and ~~Core~~ Subdistricts) and Map 2 (Permitted Small Sidewalk Cafe Locations), is set forth in Appendix A of this Chapter and is hereby incorporated as part of this Resolution for the purpose of specifying locations where the special regulations and requirements set forth in this Chapter apply.

97-04**Establishment of ~~Core~~ Subdistricts**

In order to carry out the purposes and provisions of this Chapter, ~~the Core two Subdistricts~~ is are established within the ~~#Special 125th Street District# and the Core Subdistrict and Subdistrict A.~~ Each subdistrict includes specific regulations designed to support an arts and entertainment environment and other relevant planning objectives along 125th Street. The boundaries of the ~~Core Subdistricts~~ are shown on Map 1 in Appendix A of this Chapter.

* * *

97-06

Applicability of ~~Special Transit Land Use District~~ Regulations

[Note: existing provisions moved to Section 97-061]

97-061

Applicability of Special Transit Land Use District Regulations

[Note: existing provisions moved from Section 97-06, and modified]

Wherever the ~~#Special 125th Street District#~~ includes an area which also lies within the ~~#Special Transit Land Use District#~~, the requirements of the ~~#Special Transit Land Use District#~~, as set forth in Article IX, Chapter 5, shall apply, subject to the modifications described in paragraphs ~~(e) (a)(5) and (f) (a)(6)~~ of Section ~~97-433 (Street wall location)~~ 97-432 (Height and setback regulations in the Core Subdistrict and areas outside of a subdistrict).

~~The #Special Transit Land Use District# includes the area within the #Special 125th Street District# bounded by a line 50 feet west of Second Avenue from 124th Street midway to 125th Street where such area widens to a line 100 feet west of Second Avenue.~~

97-062

Applicability of the Quality Housing Program

[Note: Existing Quality Housing provisions moved from Section 97-40 (SPECIAL BULK REGULATIONS), and modified]

In the ~~#Special 125th Street District#~~, ~~all #developments# or #enlargements#~~ #buildings# containing ~~#residences#~~ shall ~~comply with the requirements be #developed# or #enlarged#~~ in accordance with the Quality Housing Program, and the regulations of Article II, Chapter 8 (The Quality Housing Program) shall apply. The and the applicable #bulk# regulations of the underlying districts, except as modified in this Section, inclusive this Chapter shall be considered the applicable #bulk# regulations for #Quality Housing buildings#.

97-063

Applicability of Inclusionary Housing Program

[Note: Existing provisions moved from Section 97-421 (Inclusionary Housing) and changed to include Mandatory Inclusionary Housing applicability]

For the purposes of applying the Inclusionary Housing Program provisions set forth in Sections 23-154 and 23-90, inclusive, #Inclusionary Housing designated areas# and #Mandatory Inclusionary Housing areas# within the #Special 125th Street District# are shown on the maps in APPENDIX F of this Resolution.

* * *

**97-30
SPECIAL SIGN REGULATIONS**

* * *

**97-31
Definitions**

Marquee

A “marquee” is a permanent structure or canopy located above the primary entrance to an arts #use# fronting on 125th Street or Fifth Avenue, that projects over the sidewalk and is attached to, and entirely supported from, the #street wall# of the #building#. The location and dimensions of the #marquee# shall be determined by the requirements of Section 97-32.

* * *

**97-32
Location, Height and Width of Marquees and Marquee Signs**

For the purposes of this Chapter, #marquees# shall be permitted only above the primary entrance to one of the following #uses# fronting upon 125th Street or Fifth Avenue:

- Museums
- Performance spaces
- Theaters.

* * *

**97-34
Accessory Signs for Visual or Performing Arts Uses**

Notwithstanding the regulations of paragraph (b) of Section 32-653 (Additional regulations for projecting signs) and the relevant provisions of the Administrative Code, only the following visual or performing arts #uses# fronting on 125th Street or Fifth Avenue within the #Special 125th Street District# shall be permitted to erect a #marquee sign# on or above a #marquee#:

- Museums
- Performance spaces
- Theaters.

#Flashing signs# shall not be permitted as #accessory signs# for arts #uses#

* * *

97-40**SPECIAL BULK REGULATIONS**

Within the #Special 125th Street District#, ~~all for #developments# or #enlargements#, containing #residences# shall comply with the requirements of Article II, Chapter 8 (Quality Housing), and the applicable #bulk# regulations of the underlying districts shall apply, except as modified in by the provisions of this Section, inclusive.~~

97-41**Special Floor Area Regulations**

The maximum #floor area ratio#, #open space ratio# and #lot coverage# requirements of the applicable underlying district shall apply within the #Special 125th Street District#, unless modified by the following regulations.

97-411**Maximum floor area ratio in C4-4D, C4-7 and C6-3 Districts within the Core Subdistrict and areas outside of a subdistrict**

In C4-4D, C4-7 or C6-3 Districts in the Core Subdistrict, as shown on Map 1 in Appendix A of this Chapter and in such Districts in areas outside of any subdistrict, the maximum permitted #floor area ratios# shall be as listed in the following table for #residential#, #commercial# and #community facility uses#, and may only be increased pursuant to Section 97-42 (Additional Floor Area Bonuses and Lot Coverage Regulations), inclusive.

* * *

97-412**Maximum floor area ratio in Subdistrict A**

In Subdistrict A, the maximum #residential floor area ratio# shall be 9.0 and the maximum #floor area ratio# for non-#residential uses# shall be 10.0. Such maximum non-#residential floor area# may only be increased pursuant to paragraph (b) of Section 97-422 (Floor area bonus for visual or performing arts uses).

97-42**Additional Floor Area and Lot Coverage Bonuses Regulations**

~~The~~ Within #Inclusionary Housing designated areas#, as specified in APPENDIX F of this Resolution, the maximum #floor area ratio# may be increased by a pursuant to the #floor area# bonus, pursuant to provisions of Sections 23-154 (Inclusionary Housing) 97-421 (Inclusionary Housing) or paragraph (a) of Section 97-422 (Floor area bonus for visual or performing arts uses), which may be used concurrently.

Within #Mandatory Inclusionary Housing areas#, as specified in APPENDIX F, the maximum #floor area ratio# may be increased pursuant to the provisions of paragraph (b) of Section 97-422.

**97-421
Inclusionary Housing**

[NOTE: existing Inclusionary Housing applicability provision moved to Section 97-063]

~~Within the #Special 125th Street District#, In #Inclusionary Housing designated areas# within C4-4D, C4-7 and C6-3 Districts in the Core Subdistrict or areas outside of a subdistrict, shall be #Inclusionary Housing designated areas#, pursuant to Section 12-10 (DEFINITIONS), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90 (INCLUSIONARY HOUSING), inclusive, and this Section, applicable within the Special District. Within such #Inclusionary Housing designated areas#, the #residential floor area ratio# may be increased by an Inclusionary Housing bonus, pursuant to the provisions of Section 23-154 (Inclusionary Housing).~~

**97-422
Floor area bonus for visual or performing arts uses**

- (a) In C4-4D, C4-7 or C6-3 Districts within the ~~#Special 125th Street District#~~ Core Subdistrict or areas outside of a subdistrict, for a #development# or #enlargement# with frontage on 125th Street, the maximum #floor area ratio# otherwise permitted for #residential# or #commercial uses# listed in Section 97-411 may be increased up to the maximum #floor area ratio# specified in the table in this Section, provided that for every four square feet of bonused #floor area#, an amount of space equivalent to one square foot of such bonused #floor area# shall be used for those visual or performing arts #uses# designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses). Such bonused #floor area# shall be permitted only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 have been met.

MAXIMUM PERMITTED FLOOR AREA RATIO (FAR)
FOR RESIDENTIAL AND COMMERCIAL USES WITH
FLOOR AREA BONUS FOR VISUAL OR PERFORMING ARTS USES

	Outside the Core District <u>Within areas</u> <u>outside of a subdistrict</u>				Within the Core Subdistrict			
	#Residential Floor Area Ratio#		#Commercial Floor Area Ratio#		#Residential Floor Area Ratio#		#Commercial Floor Area Ratio#	
	Base	Maximum	Base	Maximum	Base	Maximum	Base	Maximum
C4-4D	5.4	7.2	4.0	5.4	5.4	7.2	4.0	5.40
C4-7	9.0	12.0	10.0	12.0	5.4	7.2	7.2	8.65
C6-3	6.0	8.0	6.0	8.0	5.4	7.2	6.0	8.00

- (b) In C4-7 Districts within Subdistrict A, for a #development# or #enlargement#, the maximum #floor area ratio# permitted in Section 97-412 (Maximum floor area ratio in Subdistrict A) may be increased up to a maximum #floor area ratio# of 12.0, provided that for every four square feet of bonused #floor

area#, an amount of space equivalent to one square foot of #floor area# shall be used for those visual or performing arts #uses# designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses). Such bonused #floor area# shall be permitted only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 have been met.

97-423

Certification for floor area bonus for visual or performing arts uses

The #floor area# bonus provisions of Section 97-422 shall apply only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the following conditions have been met:

- (a) Drawings have been provided that clearly designate all #floor area# that will result from the permitted increase in #floor area ratio# pursuant to Section 97-422, including the location of such #floor area#.
- (b) Drawings also have been provided that clearly designate all #floor area# and/or below grade floor space for any new visual or performing arts #uses# for which a bonus is to be received pursuant to Section 97-422.

Such drawings shall be of sufficient detail to show that such designated space shall be designed, arranged and used for the new visual arts or performing arts #uses#, and shall also show that:

- (1) all such visual or performing arts #uses# are located at or above the ground floor level of the #building#, except that performance space meeting the requirements of paragraph (b)(4) of this Section may be located below grade, and #accessory uses# may be located below grade, subject to the requirements of paragraph (b)(5) of this Section;
- (2) all bonused #floor area# or below grade space occupied by visual or performing arts #uses# is primarily accessed from 125th Street, except that all bonused #floor area# or below grade space occupied by visual or performing arts #uses# within a #development# may be primarily accessed from Fifth Avenue, provided the following conditions are met:
 - (i) the #zoning lot# must have at least 150 feet of Fifth Avenue frontage where such primary entrance is provided; and
 - (ii) signage that identifies the visual or performing arts #uses# shall be provided at both the primary entrance on Fifth Avenue and on 125th Street;
- (3) in the case of primary rehearsal space, where such space does not consist of #accessory uses# subject to the requirements of paragraph (b)(4), such space:
 - (i) can be adapted for rehearsals or performances open to the public;
 - (ii) is located on the first #story# of the #building# or on any higher #story# with a ceiling height not greater than 60 feet above grade;
 - (iii) has a #street wall# with at least 50 feet of frontage along 125th Street, except for visual or performing arts #uses# with primary entrances provided pursuant to (b)(2)(i) of this Section, and has a minimum area of 2,000 square feet, with a floor-to-ceiling height of not less than 9 feet 6 inches; and
 - (iv) complies with the following glazing requirements, except for visual or performing arts #uses# with primary entrances provided pursuant to (b)(2)(i) of this Section: at

least 70 percent of the total surface area of the #street wall# abutting the primary rehearsal space, measured from finished floor to ceiling shall be glazed. Furthermore, at least 90 percent of such area shall be transparent from within one foot of the finished floor level to at least eight feet above such level. For primary rehearsal spaces located at the corner of 125th Street and an intersecting #street#, the glazing requirements of this Section shall be applied separately for each #street wall#, and up to 100 feet along such intersecting #street#;

- (4) for performance space which is exclusively designed and arranged for the presentation of live drama, music, dance and interactive or multidisciplinary performances open to the public, such space may be below grade provided it has a minimum area of 2,000 square feet of column-free space with a floor-to-ceiling height of not less than 16 feet;
- (5) #Accessory# space
- (i) For primary rehearsal spaces, no more than 25 percent of ~~the~~ such minimum required #floor area# or equivalent below grade floor space, or such bonused #floor area# or below grade floor space shall be occupied by #uses accessory# to such primary rehearsal spaces. #Accessory uses# shall include but are not limited to educational and classroom space, administrative offices, circulation space, restrooms and equipment space;
- (ii) For visual or performing arts #uses# other than a primary rehearsal space, no more than 40 percent of such minimum required #floor area# or equivalent below grade floor space, or such bonused #floor area# or below grade floor space, shall be occupied by #uses accessory# to such visual or performing arts #uses#, provided no single #accessory use# occupies more than 25 percent of ~~the~~ such total minimum required #floor area# or equivalent below grade floor space, or bonused #floor area# or below grade floor space. #Accessory uses# shall include but are not limited to educational and classroom space, non-primary rehearsal space, administrative offices, lobbies, circulation space, ticket offices, restrooms, dressing rooms, other backstage areas and equipment space; and
- (6) Signage
- (i) Signage that identifies the visual or performing arts facility shall be provided at the 125th Street entrance of the visual or performing arts facility, subject to the requirements of Section 97-30, inclusive, except where such visual or performing arts #uses# comply with paragraph (b)(2)(i) of this Section 97-423; and

* * *

97-43 424
Special Lot Coverage Regulations

The maximum #lot coverage# for #residential use# in C6-3 Districts within the #Special 125th Street District# shall be 70 percent for #interior# or #through# lots and 100 percent for #corner# lots.

97-44 43
Special Height and Setback Regulations

Within the #Special 125th Street District#, the underlying height and setback regulations shall be modified in accordance with the provisions of this Section, inclusive.

97-441 431

Permitted obstructions

The provisions of Section 33-42 (Permitted Obstructions) shall apply, except that dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) Section 23-621 (Permitted obstructions in certain districts).

97-442 432

Height and setback regulations for C4-7 and C6-3 Districts in the Core Subdistrict and areas outside of a subdistrict

(a) Street wall location

[NOTE: the existing street wall provisions, moved from Section 97-443]

In all #Commercial Districts# within the Core Subdistrict and areas outside of a subdistrict, the #street wall# shall be located on the #street line# of 125th Street and extend along the entire #street# frontage of the #zoning lot# up to at least the applicable minimum base height of the underlying district, or the height of the #building#, whichever is less.

The #street wall# location provisions of such #Commercial Districts# shall be modified, as follows:

- (a)(1) On Park Avenue, within 10 feet of its intersection with any #street#, the #street wall# may be located anywhere within 10 feet of the Park Avenue #street line#. However, to allow articulation of the #street walls# pursuant to the provisions of paragraph (b) of this Section, the #street walls# may be located anywhere within an area bounded by a #street line#, the #street wall# on Park Avenue and a line connecting these two lines 15 feet from their intersection.
- (b)(2) To allow articulation of #street walls# at the intersection of any two #streets# within the Special District, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection.
- (c)(3) Recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#. Above a height of the second #story# and up to the applicable maximum base height, recesses are permitted for #outer courts# or balconies, provided that the aggregate width of such recesses does not exceed 30 percent of the width of the #street wall# at any level, and the depth of such recesses does not exceed five feet. No recesses shall be permitted within 20 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except in compliance with corner articulation rules.
- (d)(4) The #street wall# location and minimum #street wall# height provisions of this Section shall not apply to any existing #buildings# that are to remain on the #zoning lot#.

- ~~(e)~~(5) For any #development# or #enlargement# ~~within the #Special 125th Street District#~~ that is partially within the #Special Transit Land Use District# and located directly over the planned Second Avenue subway line tunnel, the #residential# portion of such #development# or #enlargement# may be constructed pursuant to the R8A #street wall# requirements and the #commercial# portion of such #development# or #enlargement# may be constructed pursuant to the C4-4D #street wall# requirements in lieu of the requirements of this Section.
- ~~(f)~~(6) The requirements of this Section shall apply within the #Special Transit Land Use District# except that, for the area of the #Special Transit Land Use District# that is also within the #Special 125th Street District#, a #street wall# of a #development# or #enlargement# located on the #street line# of a #zoning lot# need not exceed 15 feet if that portion of the #development# or #enlargement# is located directly over the planned Second Avenue subway line tunnel.

(b) Maximum height of building and setback

[NOTE: existing height and setback provisions, moved from Section 97-442]

The following modifications of the underlying district regulations shall apply for C4-7 and C6-3 Districts within the ~~Special District~~ Core Subdistrict and areas outside of a subdistrict:

- ~~(a)~~(1) The minimum and maximum base height of the #street wall# and the maximum height of a #building or other structure# shall be as set forth in the following table:

* * *

~~(b)~~(2) Special regulations for certain C4-7 Districts

- ~~(1)~~(i) For the area located within 50 feet of the 126th Street frontage and between 200 feet east of Adam Clayton Powell Boulevard and 150 feet west of Lenox Avenue/Malcolm X Boulevard, the height of any portion of a #building or other structure# shall be limited to 80 feet.
- ~~(2)~~(ii) For #zoning lots# bounded by 125th Street, Park Avenue and 124th Street, the maximum height of a #building or other structure# shall be 330 feet.
- ~~(3)~~(iii) For Lots 1 and 7501 on Block 1910, the requirements of City Environmental Quality Review (CEQR) Environmental Designation Number (E-102) have been modified, as set forth in the Technical Memorandum to the Final Environmental Impact Statement for CEQR Number 07DCP030M, dated July 18, 2008.
- ~~(e)~~(3) In C6-3 Districts, the maximum length of any #story# located above a height of 85 feet shall not exceed 150 feet. Such length shall be measured by inscribing within a rectangle the outermost walls at the level of each #story# entirely above a height of 85 feet. No side of such rectangle shall exceed a width of 150 feet.

97-443 433
Street wall location
Height and setback regulations in Subdistrict A

Within Subdistrict A, as shown on Map 1 in Appendix A of this Chapter, the underlying height and setback regulations for #Quality Housing buildings# shall apply, except that in C4-7 Districts, the minimum and maximum base heights and the overall maximum #building# height provisions of Section 35-65, inclusive, shall be modified in accordance with the following table: Maximum height of #buildings.

MINIMUM BASE HEIGHT, MAXIMUM BASE HEIGHT AND
 MAXIMUM BUILDING HEIGHT

District	#Street Wall# Height (in feet)		Maximum Height of #Building or Other Structure# (in feet)
	Minimum Base Height	Maximum Base Height	
C4-7	60	85	245

Above the maximum base height, a setback shall be provided in accordance with the provisions of paragraph (c) of Section 23-662.

* * *

97-45 44
Special Provisions for Zoning Lots Divided by District Boundaries

* * *

97-50
SPECIAL OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS

* * *

97-55
Certification for Access to Required Uses

If access to a required #accessory residential# parking facility or loading berth is not possible because of the requirements of Section 97-53 or, for #developments# in Subarea A, the requirements of Section 36-683 (Restrictions on location of berths near Residence Districts), a curb cut may be allowed if the City Planning Commission certifies to the Commissioner of Buildings that such location is:

- (a) the only possible location for the facility or loading berth;
 - (b) not hazardous to traffic safety;
 - (c) located not less than 50 feet from the intersection of any two #street lines#; and
 - (d) constructed and maintained so as to have a minimal effect on the streetscape.
- Such curb cut, if granted, shall be no greater than 20 feet in width.

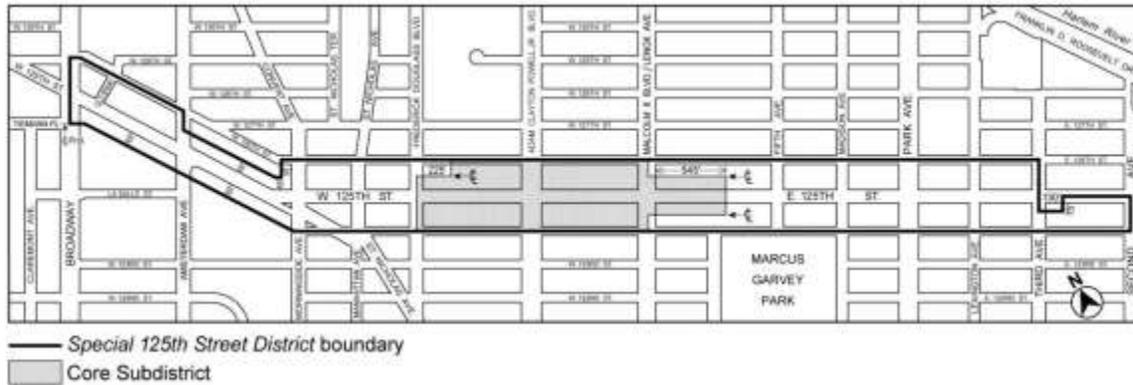
The Commissioner may refer such matter to the Department of Transportation, or its successor, for a report and may base the determination on such report.

* * *

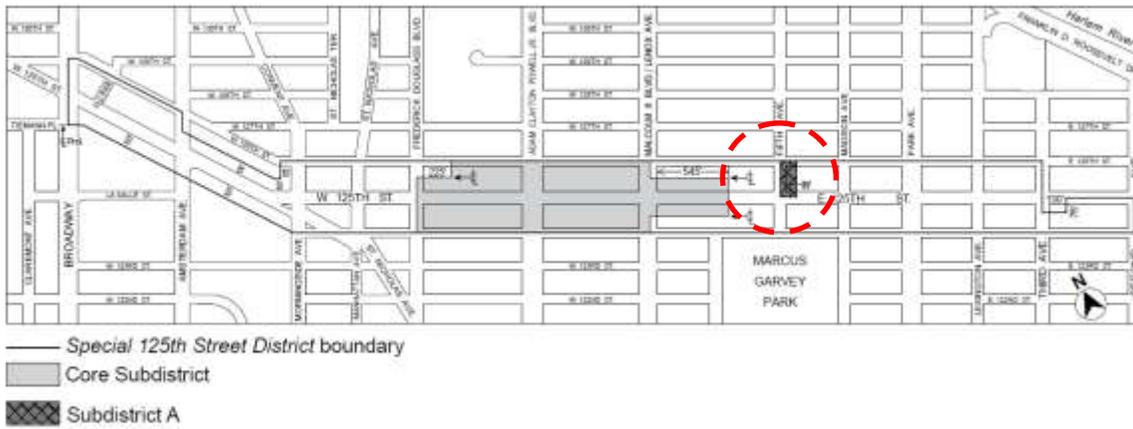
**Appendix A
Special 125th Street District Plan**

Map 1: #Special 125th Street District# and Core Subdistricts

[EXISTING MAP]



[PROPOSED MAP]



* * *

APPENDIX F
Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

MANHATTAN

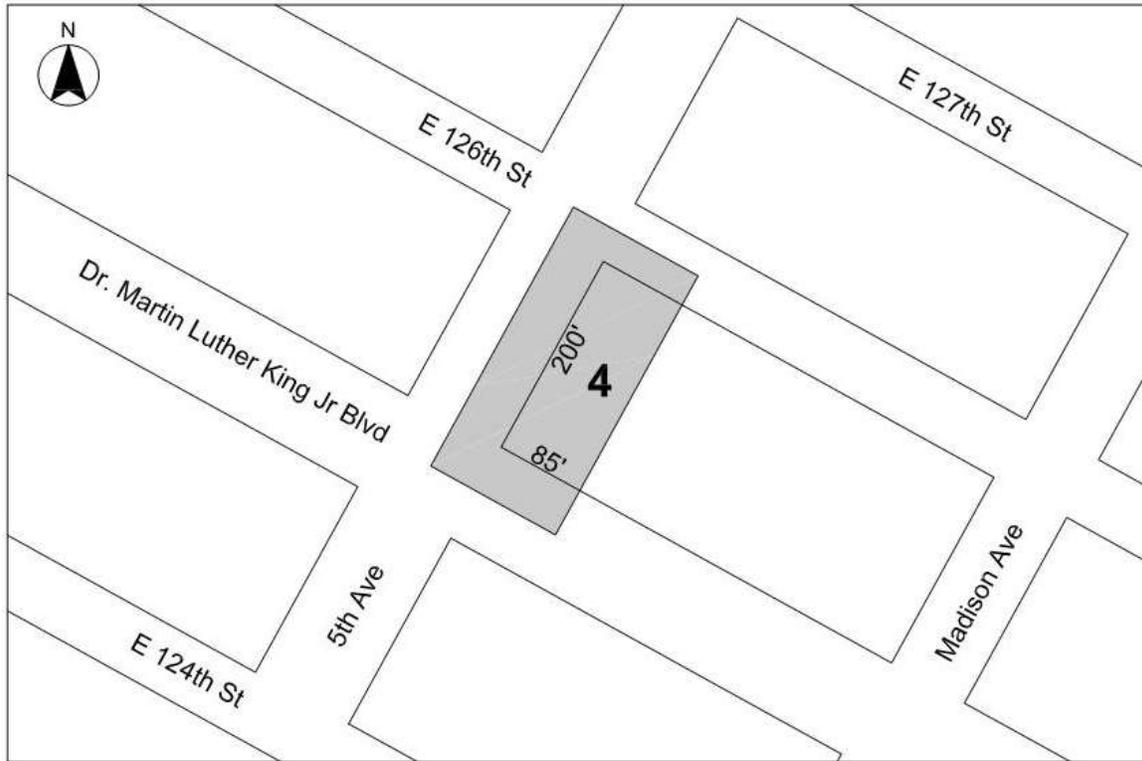
* * *

Manhattan Community District 11

* * *

Map 4 - [date of adoption]

[PROPOSED MAP]



■ Mandatory Inclusionary Housing area see Section 23-154(d)(3)

Area 4 [date of adoption] - MIH Program Option 1 and Deep Affordability ~~Option 2~~

Portion of Community District 11, Manhattan

* * *

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017. *Other Council Members Attending: Council Members Perkins and Chin.*

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. 807 & Res. No. 1799

Report of the Committee on Land Use in favor of approving Application No. C 170444 ZSM submitted by submitted by NBT Victory Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to waive 72 required off-street parking spaces for a proposed development on property located 5th Avenue between Dr. Martin Luther King Boulevard and East 126th Street, Borough of the Manhattan, Community Board 11, Council District 9. 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 October 31, 2017 (Minutes, page 3914) and which was previously before the Council at the December 11, 2017 Stated Meeting (Minutes, page 4650) and referred to the City Planning Commission; and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:

MANHATTAN CB - 11

C 170444 ZSM

City Planning Commission decision approving an application submitted by NBT Victory Development LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to waive 72 required accessory off-street parking spaces for dwelling units in a development within a Transit Zone, that includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed mixed-use development, on property located at 2031-2033 Fifth Avenue (Block 1750, Lot 1), in a C4-7 District.

INTENT

To approve the grant for the Special Permit, which in conjunction with the related actions would facilitate development of a new, 20-story mixed-use building comprising new performance space for the National Black Theater, mixed-income housing and retail space in the East Harlem section of Manhattan.

PUBLIC HEARING

DATE: November 14, 2017

Witnesses in Favor: Ten

Witnesses Against: None

SUBCOMMITTEE RECOMMENDATION

DATE: December 4, 2017

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

In Favor:

Richards, Gentile, Garodnick, Reynoso, Grodenchik.

Against:

None

Abstain:

None

COMMITTEE ACTION

DATE: December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Torres, Treyger, Grodenchik, Salamanca

Against:

None

Abstain:

None

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on December 8, 2017. The City Planning Commission filed a letter dated December 15, 2017, with the Council on December 15, 2017, indicating that the proposed modification is not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1799

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 170444 ZSM (L.U. No. 807), for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to waive 72 required accessory off-street parking spaces for dwelling units in a development within a Transit Zone, that includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed mixed-use development, on property located at 2031-2033 Fifth Avenue (Block 1750, Lot 1), in a C4-7 District, Borough of Manhattan, Community District 11.

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on October 20, 2017 its decision dated October 18, 2017 (the "Decision"), on the application submitted by NBT Victory Development LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to waive 72 required accessory off-street parking spaces for dwelling

units in a development within a Transit Zone, that includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed mixed-use development, on property located at 2031-2033 Fifth Avenue (Block 1750, Lot 1) in a C4-7 District, (ULURP No. C 170444 ZSM) Borough of Manhattan, Community District 11 (the “Application”);

WHEREAS, the Application is related to applications C 170442 ZMM (L.U. No. 805), a zoning map amendment to change a C4-4A District to a C4-7 District; and N 170443 ZRM (L.U. No. 806), a zoning text amendment to establish a new sub-district within the Special 125th Street District and to designate a Mandatory Inclusionary Housing area;

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 74-533 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 November 14, 2017;

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, including the negative declaration issued June 5, 2017 (CEQR No. 17DCP134M.), which included (E) designations to avoid the potential for significant adverse impacts related to hazardous materials, air quality and noise (E-435) (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 170444 ZSM, incorporated by reference herein, the Council approves the Decision of the City Planning Commission with the following modifications:

Matter in double ~~strikeout~~ is old, deleted by the City Council;
Matter in double underline is new, added by the City Council;

The Council approves the grant of a special permit pursuant to Section 74-533 of the Zoning Resolution to waive all 72-required accessory off-street parking spaces for dwelling units in a development within a Transit Zone, that includes at least 20 percent of all dwelling units as income-restricted housing units, in connection with a proposed mixed-use development, on property located at 2031-2033 Fifth Avenue (Block 1750, Lot 1), in a C4-7 District, Borough of Manhattan, Community District 11, subject to the following conditions:.

- 1) The property that is the subject of this application (C 170444 ZSM) 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 Dattner Architects, filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
Z-100.00	Zoning Site Plan For Special Permit Pursuant To ZR 74-533	05/22/2017
Z-101.00	Zoning Site Plan For Special Permit Pursuant To ZR 74-533	05/22 / <u>12/11</u> /2017

- 2) Such development shall confirm 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, operation and maintenance.
- 4) In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this resolution and the restrictive declaration described below and any subsequent modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.
- 5) 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, sublessee or occupant.
- 6) Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution the provisions of which shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure 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.
- 7) Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's action or failure to act in accordance with the provisions of this special permit.

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, RITCHIE J. TORRES, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017. *Other Council Members Attending: Council Members Perkins and Chin.*

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. 817 & Res. No. 1800

Report of the Committee on Land Use in favor of approving Application No. N 170425 (A) ZRY submitted by New York City Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to create a definition, a use and, in designated areas, a special permit for self-service storage facilities and to establish APPENDIX J (Designated Areas in Manufacturing Districts).

The Committee on Land Use, to which the annexed Land Use item was referred on November 16, 2017 (Minutes, page 4075) and which was previously before the Council at the December 11, 2017 Stated Meeting (Minutes, page 4651) and referred to the City Planning Commission; and which same Land Use item was coupled with the resolution shown below, respectfully

REPORTS:**SUBJECT****CITYWIDE****N 170425(A) ZRY**

City Planning Commission decision approving an application submitted by New York City Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, to create a definition, a use and, in designated areas, a special permit for self-service storage facilities and to establish APPENDIX J (Designated Areas in Manufacturing Districts).

INTENT

To approve the amendment of the Zoning Resolution in order to permit new self-storage development as-of-right within designated areas in M districts, only if the proposed building is mixed-use and contains industrial space.

PUBLIC HEARING

DATE: November 20, 2017

Witnesses in Favor: Fifteen

Witnesses Against: Eight

SUBCOMMITTEE RECOMMENDATION

DATE: December 7, 2017

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

In Favor:

Richards, Gentile, Garodnick, Williams, Reynoso, Grodenchik.

Against:

Torres

Abstain:

None

COMMITTEE ACTION

DATE: December 7, 2017

The Committee recommends that the Council approve the attached resolution.

In Favor:

Greenfield, Gentile, Palma, Garodnick, Mendez, Lander, Levin, Rose, Williams, Richards, Barron, Cohen, Kallos, Reynoso, Treyger, Grodenchik, Salamanca.

Against:

Torres

Abstain:

None

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on December 8, 2017. The City Planning Commission filed a letter dated December 13, 2017, with the Council on December 15, 2017, indicating that the proposed modification is not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Greenfield and Richards offered the following resolution:

Res. No. 1800

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 170425 (A) ZRY, for an amendment of the Zoning Resolution of the City of New York, to create a definition, a use and, in designated areas, a special permit for self-service storage facilities and to establish APPENDIX J (Designated Areas in Manufacturing Districts), Citywide (L.U. No. 817).

By Council Members Greenfield and Richards.

WHEREAS, the City Planning Commission filed with the Council on November 3, 2017 its decision dated November 1, 2017 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the New York City Department of City Planning for an amendment of the text of the Zoning Resolution of the City of New York, to create a definition, a use and, in designated areas, a special permit for self-service storage facilities and to establish APPENDIX J (Designated Areas in Manufacturing Districts). The modified zoning text amendment would permit new self-storage development as-of-right within

designated areas in M districts only if the proposed building is mixed-use and contains industrial space (Application No. N 170425 (A) ZRY), Citywide (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 20, 2017;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues, including the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 20, 2017 (CEQR No. 17DCP119Y) and the Technical Memorandum completed on December 8, 2017 ("Technical Memorandum");

RESOLVED:

Having considered the FEIS with respect to the Decision and Application, and the Technical Memorandum analyzing the modifications to the Decision and Application, the Council finds that:

- (1) The FEIS and Technical Memorandum meet the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the Proposed Action as modified with the modifications adopted herein and in the Technical Memorandum, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable;
- (3) The Decision, together with the FEIS and Technical Memorandum constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of this determination, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in the report, N 170425 (A) ZRY, incorporated by reference herein, the Council approves the Decision of the City Planning Commission with the following modifications:

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

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

Matter in ~~double-strikeout~~ is old, deleted by the City Council;

Matter in double underline is new, added by the City Council.

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

ARTICLE I**GENERAL PROVISIONS****Chapter 2****Construction of Language and Definitions**

12-10

DEFINITIONS

* * *

Industrial floor space

“Industrial floor space” is #floor area# or #cellar# space, excluding mechanical space and common space such as hallways, lobbies or stairways, with a minimum clear height from floor to ceiling of 15 feet, and allocated to one or more of the #manufacturing#, semi-industrial or industrial #uses# listed in ~~Use Groups 9A (limited to art studios), 10A (limited to photographic or motion picture production studios and radio or television studios),~~ Use Groups 11A, 16A (excluding animal hospitals and kennels; animal pounds or crematoriums; automobile, motorcycle, trailer, or boat sales; crematoriums, human; motorcycle or motor scooter rental establishments; poultry or rabbit killing establishments; riding academies; stables for horses; and trade schools for adults), 16B, 16D (limited to wholesale establishments) ~~(other than a #self-service storage facility#),~~ 17 or 18A. #Industrial floor space# shall not include any diagnostic medical laboratories that receive patients.

* * *

Self-service storage facility

A “self-service storage facility” is a moving or storage office, or a warehouse establishment, as listed in Use Group 16D, for the purpose of storing personal property, where:

- (a) such facility is partitioned into individual, securely subdivided space for lease; or
- (b) such facility consists of enclosed or unenclosed floor space which is subdivided by secured bins, boxes, containers, pods or other mobile or stationary storage devices; and
- (c) such floor space or storage devices are less than 300 square feet in area and are to be leased or rented to persons or businesses to access, store or remove property on a self-service basis.

* * *

ARTICLE III

COMMERCIAL DISTRICT REGULATIONS

Chapter 2

Use Regulations

* * *

32-10**USES PERMITTED AS-OF-RIGHT**

* * *

32-25**Use Group 16**

C8

Use Group 16 consists of automotive and other necessary semi-industrial #uses# which:

- (1) are required widely throughout the city; and
- (2) involve offensive noise, vibration, smoke, dust, or other particulate matter, odorous matter, heat, humidity, glare, or other objectionable influences, making such #uses# incompatible with #residential uses# and other #commercial uses#.

* * *

D. Heavy Service, Wholesale, or Storage Establishments

Carpet cleaning establishments [PRC-F]

Dry cleaning or cleaning and dyeing establishments, with no limitation on type of operation, solvents, #floor area# or capacity per establishment [PRC-F]

Laundries, with no limitation on type of operation [PRC-F]

Linen, towel or diaper supply establishments [PRC-F]

Moving or storage offices, with no limitation as to storage or #floor area# per establishment [PRC-G]*

Packing or crating establishments [PRC-G]

Photographic developing or printing with no limitation on #floor area# per establishment [PRC-C]

Trucking terminals or motor freight stations, limited to 20,000 square feet of #lot area# per establishment [PRC-G]

Warehouses [PRC-G]*

Wholesale establishments, with no limitation on #accessory# storage [PRC-C]

E. #Accessory Uses#

* In designated areas within #Manufacturing Districts#, as shown on the maps in APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution, a #self-service storage facility# is subject to the provisions of Section 42-121 (Use Group 16D self-service storage facilities).

* * *

ARTICLE IV

MANUFACTURING DISTRICT REGULATIONS

Chapter 2

Use Regulations

* * *

42-10

USES PERMITTED AS-OF-RIGHT

* * *

42-12

Use Groups 3A, 6A, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16

M1 M2 M3

Use Group 3A shall be limited to Museums that are ancillary to existing Motion Picture Production Studios or Radio or Television Studios, provided they are located within 500 feet of such studios and do not exceed 75,000 square feet of #floor area#.

Use Groups 6A except that food stores, including supermarkets, grocery stores or delicatessen stores, shall be limited to 10,000 square feet of #floor area# per establishment, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16 as set forth in Sections 32-15 to 32-23, inclusive, and Section 32-25. However, in Community District 1, in the Borough of the Bronx, in M1-4 Districts, food stores, including supermarkets, grocery stores or delicatessen stores, shall be limited to 30,000 square feet of #floor area# per establishment.

Use Group 10A shall be limited to depositories for storage of office records, microfilm or computer tapes, or for data processing; docks for ferries; office or business machine stores, sales or rental; photographic or motion picture production studios; and radio or television studios.

In the #Manhattan Core#, automobile rental establishments, #public parking garages# and #public parking lots# in Use Groups 8C and 12D are subject to the provisions of Article I, Chapter 3, and in the #Long Island City area#, as defined in Section 16-02 (Definitions), #public parking garages# and #public parking lots# in Use Groups 8C and 12D are subject to the provisions of Article I, Chapter 6.

In designated areas within #Manufacturing Districts#, as shown on the maps in APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution, a #self-service storage facility# is subject to the provisions of Section 42-121 (Use Group 16D self-service storage facilities).

42-121

Use Group 16D self-service storage facilities

In designated areas within #Manufacturing Districts#, as shown on the maps in APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution, a #self-service storage facility# is subject to the provisions of this Section. Designated areas in which #self-service storage facilities# are subject to the as-of-right provisions of Section 42-121 (Use Group 16D self-service storage facilities) are shown on the maps in Subarea 1, and those in which such #uses# are subject to special permit of the City Planning Commission pursuant to Section 74-932 (Self-service storage facility in designated area within Manufacturing Districts) are shown on the maps in Subarea 2.

A ~~Use Group 16D~~ #self-service storage facility# shall, in ~~designated areas within #Manufacturing Districts# as shown on the maps in~~ Subarea 1 of APPENDIX J (~~Designated Areas Within Manufacturing Districts~~) of this Resolution, be limited to establishments that provide an #industrial floor space# as defined in Section 12-10 (DEFINITIONS) or “business-sized” storage space as specified in paragraph (b)(2) of this Section.

- a) On a #zoning lot# greater than or equal to ~~25~~50,000 square feet in area, a #self-service storage facility# shall provide #industrial floor space# that is:
 - (1) equal in #floor area# or #cellar# space to ~~50~~25 percent of the #lot area#;
 - (2) located below the level of the third #story#, with at least 50 percent of such #industrial floor space# located on the ground floor, ~~where~~ such ground floor #story# is located within five feet of #curb level#, or #base plane#, as applicable and the remaining #industrial floor space# located on a level that is immediately above or below such #story#; and
 - (3) provided with access to freight elevators and the #accessory# off-street loading berth required for such #industrial floor space# in accordance with the provisions of Section 44-586 (Regulations for permitted or required loading berths for zoning lots containing self-service storage facilities in designated areas).
- b) On a #zoning lot# that on [date of adoption] is less than ~~25~~50,000 square feet in area, a #self-service storage facility# shall provide:
 - (1) #industrial floor space# as specified in paragraph (a) of this Section; or
 - (2) #floor area# or #cellar# space containing securely subdivided space for lease within such #self-service storage facility#, where each subdivided space is not less than 100 square feet in area, and with a minimum clear height of 8 feet. Such spaces shall be categorized as “business-sized” for the purposes of this Section and the number and sizes of such spaces shall be shown on plans filed with the Department of Buildings. The total area of such business-sized storage space shall be equal in #floor area# or #cellar# space to ~~50~~ 25 percent of the #lot area#.
- c) On a #zoning lot# on which #industrial floor space# is provided in accordance with paragraph (a) or (b)(1) of this Section, an information #sign# shall be provided. Such required #sign# shall be mounted on an exterior #building# wall adjacent to and no more than five feet from all primary entrances of the #building# containing the #industrial floor space#. The #sign# shall be placed so that it is directly visible, without any obstruction, to persons entering the #building#, and at a height no

less than four feet and no more than five and a half feet above the adjoining grade. Such #sign# shall be legible, no less than 12 inches by 12 inches in size and shall be fully opaque, non-reflective and constructed of permanent, highly durable materials. The information #sign# shall contain the name and address of the building in lettering no less than three-quarters of an inch in height; and the following statement in lettering no less than one-half inch in height, "This building is subject to Industrial Floor Space regulations which require a minimum amount of space to be provided for specific industrial uses." The information #sign# shall include an Internet URL, or other widely accessible means of electronically transmitting and displaying information to the public, where the information required in paragraph (d) of this Section is available to the public.

d) On a #zoning lot# on which #industrial floor space# is provided in accordance with paragraph (a) or (b)(1) of this Section, no later than June 30 of each year, beginning in the first calendar year in which a temporary or final certificate of occupancy was issued for the #industrial floor space#, the owner of the #building# subject to the #use# restrictions of this Section shall prepare a report on the existing conditions of the #building#. Such report shall be in a form provided by the Director of the Department of City Planning, and shall provide the following information at the designated Internet URL, or other widely accessible means of electronically transmitting and displaying information to the public:

(1) the total #floor area# of the #industrial floor space# in the #building# required by this Section;

(2) the name of each business establishment occupying #floor area# reserved for the #industrial floor space#. Such business establishment name shall include that name by which the establishment does business and is known to the public. For each business establishment, the amount of #floor area# the Use Group, subgroup and specific #use# as listed in this Resolution shall also be included;

(3) a description of each establishment using the North American Industry Classification System (NAICS) code and number of employees;

(4) the total amount of #industrial floor space# that is vacant, as applicable;

(5) the average annual rent for the portions of the #building#, in the aggregate, required to be #industrial floor space#.

(6) the number of new leases executed during the calendar year, categorized by lease duration, in five year increments from zero to five years, five to 10 years, 10 to 15 years, 15 to 20 years, and 20 years or greater.

The report shall be submitted to the Director of the Department of City Planning, by any method, including e-mail or other electronic means, acceptable to the Director. The applicable Community Board, Borough President and local Council Member shall be included in such transmission.

~~The Board of Standards and Appeals may permit a #self storage service facility# that does not meet the requirements of paragraphs (a) and (b) of this Section pursuant to Section 73-37 (Self-Service Storage Facilities in Designated Areas Within Manufacturing Districts).~~

A #self-service storage facility# shall, in Subarea 2 of APPENDIX J of this Resolution, be permitted by special permit of the City Planning Commission pursuant to Section 74-932 (Self-service storage facility in designated area within Manufacturing Districts).

Any #self-service storage facility# existing on [date of adoption] located in a designated area within #Manufacturing Districts#, as shown on the maps in APPENDIX J, shall be considered a conforming #use#, provided that the owner of such #self-service storage facility# has filed documentation satisfactory to the Department of Buildings that it existed on such date ~~[date of adoption]~~ and met the definition of #self-service storage facility# set forth in Section 12-10 (DEFINITIONS). Any #enlargement# or #extension# to an existing conforming facility ~~and~~ need not provide #industrial floor space#, ~~or~~ business-sized storage, or apply for special permit of the City Planning Commission pursuant to Section 74-932 (Self-storage service facility in designated areas within Manufacturing Districts), as applicable, provided there is no increase in #lot area# of the #zoning lot# as it existed on [date of adoption]. In the event that a #building# for which satisfactory documentation has been filed with the Department of Buildings is damaged or destroyed by any means, such #building# may be reconstructed on the same #zoning lot# and continue as a #self-service storage facility# without providing #industrial floor space# or business-sized storage, as applicable, provided that the #floor area# of such reconstructed #self-service storage facility# does not exceed the #floor area# permitted pursuant to the provisions of Section 43-10 (FLOOR AREA REGULATIONS), inclusive.

Any #self-service storage facility# existing on [date of adoption] that does not file such documentation satisfactory to the Department of Buildings pursuant to the provisions of this Section shall be considered #non-conforming# and subject to the provisions of Article V (NON-CONFORMING USES AND NON-COMPLYING BUILDINGS) of this Resolution.

* * *

42-30

USES PERMITTED BY SPECIAL PERMIT

* * *

42-31

By the Board of Standards and Appeals

In the districts indicated, the following #uses# are permitted by special permit of the Board of Standards and Appeals, in accordance with standards set forth in Article VII, Chapter 3.

* * *

M1 M2 M3

Sand, gravel or clay pits

M1 M2 M3

~~#Self-service storage facilities# in designated areas within #Manufacturing Districts#, as shown on the maps in APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution, that do not meet the requirements of paragraphs (a) and (b) of Section 42-121 (Use Group 16D self-service storage facilities)~~

M1

#Schools#, provided they have no living or sleeping accommodations

* * *

42-32

By the City Planning Commission

In the districts indicated, the following #uses# are permitted by special permit of the City Planning Commission, in accordance with standards set forth in Article VII, Chapter 4.

* * *

M1 M2 M3

Trade expositions, with rated capacity of more than 2,500 persons [PRC-D]

M1 M2 M3

#Self-service storage facilities# in designated areas within #Manufacturing Districts# in Subarea 2 as shown on the maps in APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution.

M1 M2 M3

#Uses# listed in a permitted Use Group for which #railroad or transit air space# is #developed#

M1

#Uses# listed in Use Group 4A Community Facilities, except ambulatory diagnostic or treatment health care facilities and houses of worship

M1

Variety stores, with no limitation on #floor area# per establishment [PRC-B]

Chapter 3

Bulk Regulations

* * *

43-10

FLOOR AREA REGULATIONS

* * *

43-123

Floor area increase for an industrial space within a self-service storage facility

In M1-1 Districts in designated areas in Subarea 1, as shown on the maps of APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution, for any #zoning lot# containing a #self-service storage facility# that meets the requirements of paragraphs (a) or (b)(1) of Section 42-121 (Use Group 16D self-service storage facilities), the maximum permitted #floor area# for #commercial# or #manufacturing uses# on the #zoning lot# pursuant to the provisions of Section 43-12 (Maximum floor area ratio), inclusive, may be increased by a maximum of ~~50~~ 25 percent of the #lot area# or up to 20,000 square feet, whichever is less.

* * *

Chapter 4

Accessory Off-street Parking and Loading Regulations

* * *

44-20

REQUIRED ACCESSORY OFF-STREET PARKING SPACES FOR MANUFACTURING, COMMERCIAL OR COMMUNITY FACILITY USES

* * *

44-28

Parking Regulations for Residential Uses in M1-1D through M1-5D Districts

* * *

44-29

Parking Regulations for Zoning Lots Containing Self-Service Storage Facilities in Designated Areas

M1-1 M1-2 M1-3 M2-1 M2-2 M3-1

In the Districts indicated, in designated areas within #Manufacturing Districts# in Subarea 1, as shown on the maps ~~in~~ of APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution, the provisions of Section 44-21 (General Provisions) are modified as set forth in this Section for all #uses# within the #industrial floor space#.

For any #zoning lot# containing a #self-service storage facility# that meets the requirements of paragraphs (a) or (b)(1) of Section 42-121 (Use Group 16D self-service storage facilities), #accessory# off-street parking spaces, open or enclosed, shall not be required for #uses# within #industrial floor space#, where all such #uses# occupy less than 10,000 square feet of #floor area# or have fewer than 15 employees. For #industrial floor space# on such #zoning lots# where such #uses#, in total, occupy at least 10,000 square feet of #floor area# or have 15 or more employees, #accessory# off-street parking spaces, open or enclosed, shall be required for all #uses# within the #industrial floor space# at the rate of one space per 2,000 square feet of #floor area#, or one space per three employees, whichever will require a lesser number of spaces.

* * *

44-50

GENERAL PURPOSES

* * *

44-58

Additional Regulations for Permitted or Required Berths

* * *

44-586

Regulations for permitted or required loading berths for zoning lots containing self-service storage facilities in designated areas

M1-1 M1-2 M1-3 M2-1 M2-2 M3-1

In the Districts indicated, in designated areas within #Manufacturing Districts# in Subarea 1, as shown on the maps ~~in~~ of APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution, the provisions of Sections 44-52 (Required Accessory Off-street Loading Berths) and 44-581 (Size of required loading berths) are modified as set forth in this Section.

For any #zoning lot# containing a #self-service storage facility# that meets the requirements of paragraphs (a) or (b)(1) of Section 42-121 (Use Group 16D self-service storage facilities), all required #accessory# off-street loading berths for a #self-service storage facility# shall have a minimum length of 37 feet. The dimensions of off-street loading berths shall not include driveways, or entrances to or exits from such off-street loading berths.

The number of #accessory# off-street loading berths required for #uses# occupying #industrial floor space# shall be as set forth in the following table:

<u>#Floor Area# (in square feet)</u>	<u>Required Loading Berths</u>
<u>First 15,000</u>	<u>None</u>
<u>Next 25,000</u>	<u>1</u>
<u>Next 40,000</u>	<u>1</u>
<u>Each additional 80,000 or fraction thereof</u>	<u>1</u>

Additional loading berths shall not be required for a change of #use# within an existing #building# from Use Group 16D to a #self-service storage facility#.

* * *

ARTICLE VII

ADMINISTRATION

Chapter 3

Special Permits by the Board of Standards and Appeals

* * *

73-00

SPECIAL PERMIT USES AND MODIFICATIONS

* * *

73-11

General Provisions

~~Subject to the general findings required by Section 73-03 and in accordance with the provisions contained in Sections 73-12 to 72-36 73-37, inclusive, the Board of Standards and Appeals shall have the power to permit special permit #uses#, and shall have the power to impose appropriate conditions and safeguards thereon.~~

* * *

73-36

~~Physical Culture or Health Establishments~~

~~* * *~~

~~73-37~~

~~Self-service Storage Facilities in Designated Areas Within Manufacturing Districts~~

~~On #zoning lots# in designated areas within #Manufacturing Districts#, as shown on the maps in APPENDIX J (Designated Areas Within Manufacturing Districts) of this Resolution, the Board of Standards and Appeals may modify the requirements of paragraphs (a) or (b) of Section 42-121 (Use Group 16D self service storage facilities), permitting #self-service storage facilities# provided the Board finds that:~~

~~(a) such requirements create practical difficulties, with no reasonable possibility that a #development#, #enlargement#, or #conversion# on the #zoning lot# in strict compliance with the provisions of Section 42-121 (Use Group 16D self service storage facilities) will bring a reasonable return, and that a reduction or modification of these requirements is therefore necessary to enable the owner to realize a reasonable return from such #development#, #enlargement#, or #conversion# on the #zoning lot#; and~~

~~(b) the reduction or modification of such requirements is the minimum necessary to afford relief.~~

~~The Board may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.~~

~~* * *~~

Chapter 4: Special Permits by the City Planning Commission

~~* * *~~

74-90

USE AND BULK MODIFICATIONS FOR CERTAIN COMMUNITY FACILITY USES

~~* * *~~

74-93

Special Commercial and Manufacturing Developments

~~* * *~~

74-931

Special commercial or mixed-use developments in commercial districts

* * *

74-932**Self-service storage facility in designated areas within Manufacturing Districts**

On #zoning lots# in designated areas within #Manufacturing Districts# in Subarea 2, as shown on the maps of Appendix J (Designated Areas Within Manufacturing Districts) of this Resolution, the City Planning Commission may permit the #development#, #enlargement# not permitted pursuant to the provisions of Section 42-121, or change of #use# of a #building# for #self-service storage facility use#.

In order to grant such permit, the Commission shall find that the #zoning lot# is appropriate for such #self-service storage facility use#, based on the land use characteristics of the proposed #zoning lot# and the surrounding area. In making this determination, the Commission may consider the following:

- (1) whether such #use# is consistent with the economic development objectives of the City for the designated area in which the #self-service storage facility# seeks to be located, and may, in making this determination, consult with the Department of Small Business Services;
- (2) whether recent trends for and levels of investment by #uses# listed in Use Groups 16D (other than a #self-service storage facility#), 17 or 18 demonstrate that there is minimal demand for space for such #uses# in the surrounding area;
- (3) whether the size and configuration of the #zoning lot# make it better suited for #self-service storage facility use# than for other #uses# listed in Use Groups 16D, 17 or 18;
- (4) for changes of #use# to existing #buildings#, whether the design and layout of loading docks, interior column spacing, floor-to-ceiling height and other relevant physical characteristics of the existing #building# make the #building# better suited for #self-service storage facility use# than for other #uses# listed in Use Groups 16D, 17 or 18;
- (5) whether the distance of the #zoning lot# from an arterial highway or a designated truck route, or lack of frontage on a #wide street#, makes the #zoning lot# better suited for #self-service storage facility use# than for other #uses# listed in Use Groups 16D, 17 or 18;
- (6) whether the distance of the #zoning lot# from mass transit to serve employees makes the #zoning lot# better suited for #self-service storage facility use# than for other #uses# listed in Use Groups 16D, 17 or 18;
- (7) whether the establishment of a #self-service storage facility# will cause environmental remediation work to be undertaken on the #zoning lot#; or
- (8) whether there is a concentration of existing #self-service storage facilities# in the surrounding area.

The Commission may impose appropriate conditions and safeguards to minimize any adverse effects upon the existing #uses# in the surrounding area.

* * *

APPENDIX J – Designated Areas Within Manufacturing Districts

The boundaries of certain designated areas within #Manufacturing Districts# are shown on the maps in this APPENDIX. ~~and include areas in the following Community Districts:~~ Designated areas in which #self-service storage facilities# are subject to the as-of-right provisions of Section 42-121 (Use Group 16D self-service storage facilities) are shown on the maps in Subarea 1, and those in which such #uses# are subject to special permit of the City Planning Commission pursuant to Section 74-932 (Self-service storage facility in designated area within Manufacturing Districts) are shown on the maps in Subarea 2.

<u>Borough</u>	<u>Community Districts</u>	<u>Name of Designated Area in M District</u>	<u>Map No</u>
<u>The Bronx</u>	<u>1, 2</u>	<u>Port Morris</u>	<u>Maps 1-3</u>
<u>The Bronx</u>	<u>2</u>	<u>Hunts Point</u>	<u>Maps 1-3</u>
<u>The Bronx</u>	<u>9, 10</u>	<u>Zerega</u>	<u>Maps 1, 2</u>
<u>The Bronx</u>	<u>3, 4, 6</u>	<u>Bathgate</u>	<u>Map 1</u>
<u>The Bronx</u>	<u>10, 12</u>	<u>Eastchester</u>	<u>Map 1</u>
<u>Brooklyn</u>	<u>2</u>	<u>Brooklyn Navy Yard</u>	<u>Map 1</u>
<u>Brooklyn</u>	<u>6, 7</u>	<u>Southwest Brooklyn</u>	<u>Maps 1-5</u>
<u>Brooklyn</u>	<u>5, 16, 17, 18</u>	<u>Flatlands/Fairfield</u>	<u>Maps 1-4</u>
<u>Brooklyn</u>	<u>5, 16</u>	<u>East New York</u>	<u>Maps 1, 2</u>
<u>Brooklyn/Queens</u>	<u>BK 4/QN 5</u>	<u>Ridgewood</u>	<u>Map 1</u>
<u>Brooklyn</u>	<u>1</u>	<u>Williamsburg/Greenpoint</u>	<u>Map 1</u>
<u>Brooklyn/Queens</u>	<u>BK 1, 4/QN 2</u>	<u>North Brooklyn/Long Island City/Maspeth</u>	<u>Maps 1-3</u>
<u>Queens/Brooklyn</u>	<u>QN 2, 5/BK 1</u>	<u>Maspeth/North Brooklyn</u>	<u>Maps 1-4</u>
<u>Queens</u>	<u>1, 2</u>	<u>Long Island City</u>	<u>Maps 1-4</u>
<u>Queens</u>	<u>2</u>	<u>Woodside</u>	<u>Map 1</u>
<u>Queens</u>	<u>1</u>	<u>Steinway</u>	<u>Maps 1, 2</u>
<u>Queens</u>	<u>9, 12</u>	<u>Jamaica</u>	<u>Maps 1-4</u>
<u>Queens</u>	<u>10, 12, 13</u>	<u>JFK</u>	<u>Maps 1-3</u>
<u>Staten Island</u>	<u>1</u>	<u>North Shore</u>	<u>Maps 1-5</u>
<u>Staten Island</u>	<u>1, 2</u>	<u>West Shore</u>	<u>Maps 1-3</u>

<u>Staten Island</u>	<u>3</u>	<u>Rossville</u>	<u>Map 1</u>
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SUBAREA 1

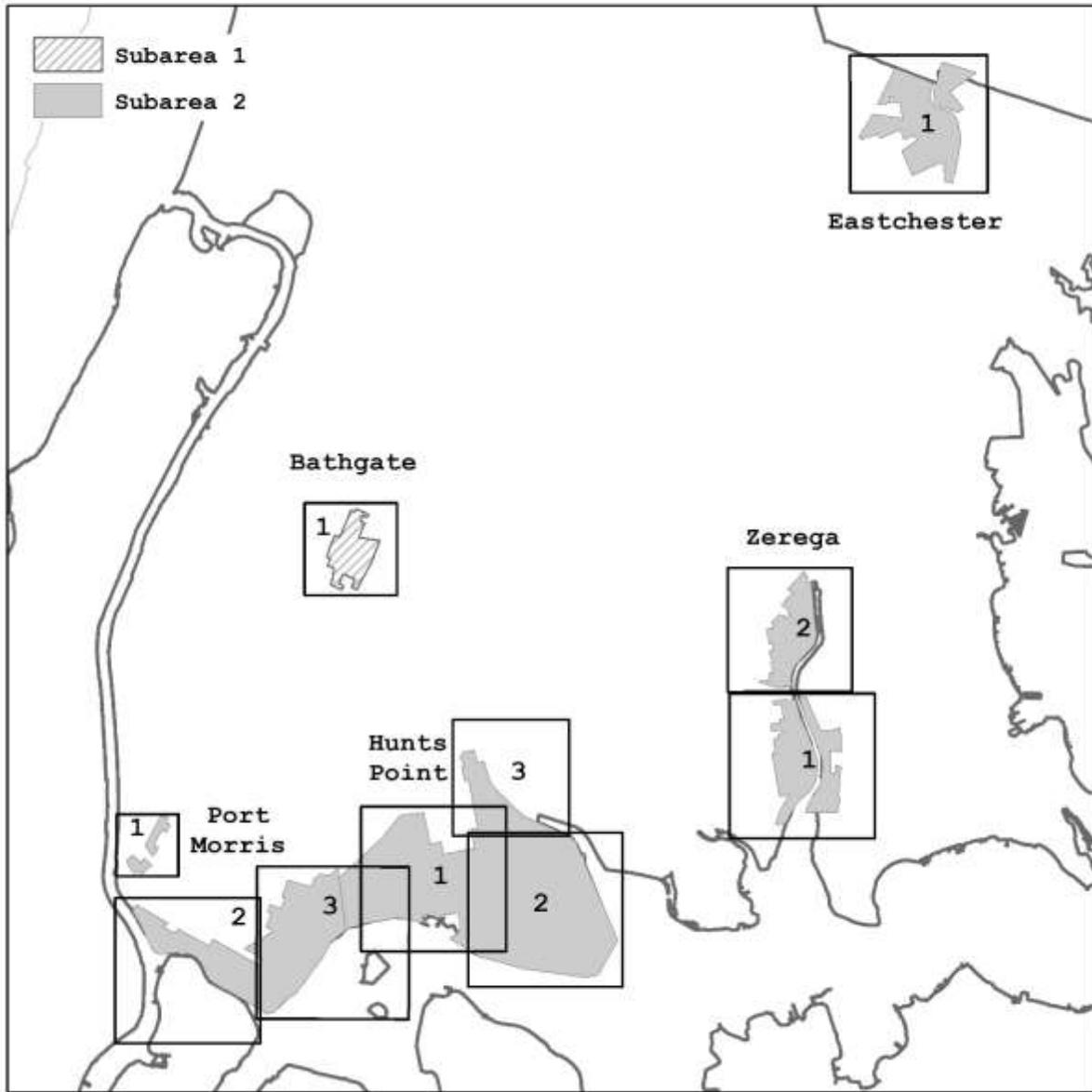
<u>Borough</u>	<u>Community Districts</u>	<u>Name of Designated Area in M District</u>	<u>Map No</u>
<u>The Bronx</u>	<u>3, 4, 6</u>	<u>Bathgate</u>	<u>Map 1</u>
<u>Queens</u>	<u>1</u>	<u>Steinway</u>	<u>Maps 1, 2</u>
<u>Queens</u>	<u>9</u>	<u>Richmond Hill</u>	<u>Map 1</u>
<u>Staten Island</u>	<u>1, 2</u>	<u>West Shore</u>	<u>Maps 1-3</u>
<u>Staten Island</u>	<u>3</u>	<u>Rossville</u>	<u>Map 1</u>

SUBAREA 2

<u>Borough</u>	<u>Community Districts</u>	<u>Name of Designated Area in M District</u>	<u>Map No</u>
<u>The Bronx</u>	<u>1, 2</u>	<u>Port Morris</u>	<u>Maps 1-3</u>
<u>The Bronx</u>	<u>2</u>	<u>Hunts Point</u>	<u>Maps 1-3</u>
<u>The Bronx</u>	<u>9, 10</u>	<u>Zerega</u>	<u>Maps 1, 2</u>
<u>The Bronx</u>	<u>10, 12</u>	<u>Eastchester</u>	<u>Map 1</u>
<u>Brooklyn</u>	<u>2</u>	<u>Brooklyn Navy Yard</u>	<u>Map 1</u>
<u>Brooklyn</u>	<u>6, 7</u>	<u>Southwest Brooklyn</u>	<u>Maps 1-5</u>
<u>Brooklyn</u>	<u>5, 16, 17, 18</u>	<u>Flatlands/Fairfield</u>	<u>Maps 1-4</u>
<u>Brooklyn</u>	<u>5, 16</u>	<u>East New York</u>	<u>Maps 1, 2</u>
<u>Brooklyn/Queens</u>	<u>BK 4/QN 5</u>	<u>Ridgewood</u>	<u>Map 1</u>
<u>Brooklyn</u>	<u>1</u>	<u>Williamsburg/Greenpoint</u>	<u>Map 1</u>
<u>Brooklyn/Queens</u>	<u>BK 1, 4/QN 2</u>	<u>North Brooklyn/Long Island City/Maspeth</u>	<u>Maps 1-3</u>
<u>Queens/Brooklyn</u>	<u>QN 2, 5/BK 1</u>	<u>Maspeth/North Brooklyn</u>	<u>Maps 1-4</u>
<u>Queens</u>	<u>1, 2</u>	<u>Long Island City</u>	<u>Maps 1-4</u>
<u>Queens</u>	<u>2</u>	<u>Woodside</u>	<u>Map 1</u>
<u>Queens</u>	<u>12</u>	<u>Jamaica</u>	<u>Maps 1-3</u>
<u>Queens</u>	<u>10, 12, 13</u>	<u>JFK</u>	<u>Maps 1-3</u>
<u>Staten Island</u>	<u>1</u>	<u>North Shore</u>	<u>Maps 1-5</u>

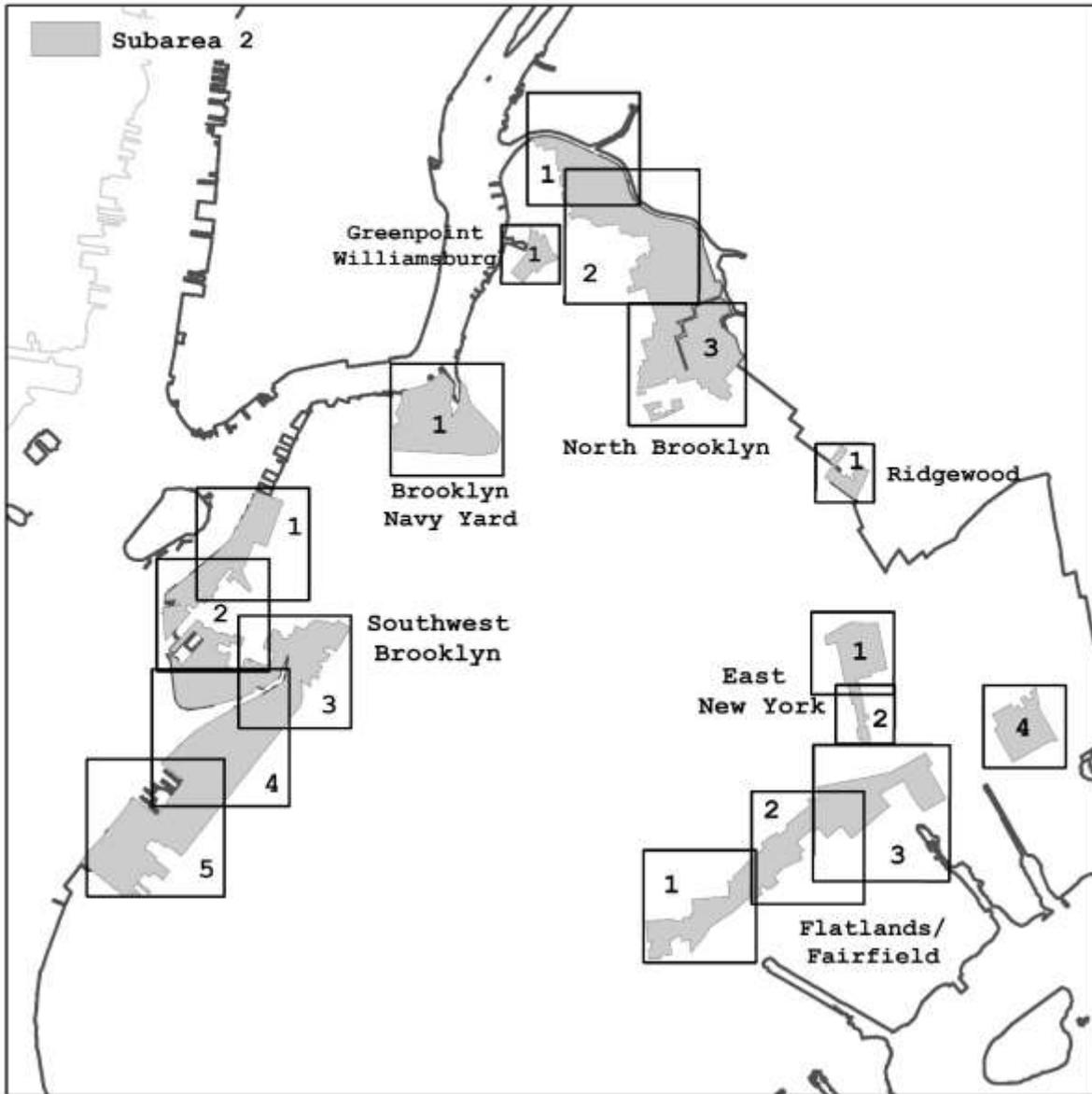
INDEX MAPS OF DESIGNATED AREAS

The Bronx



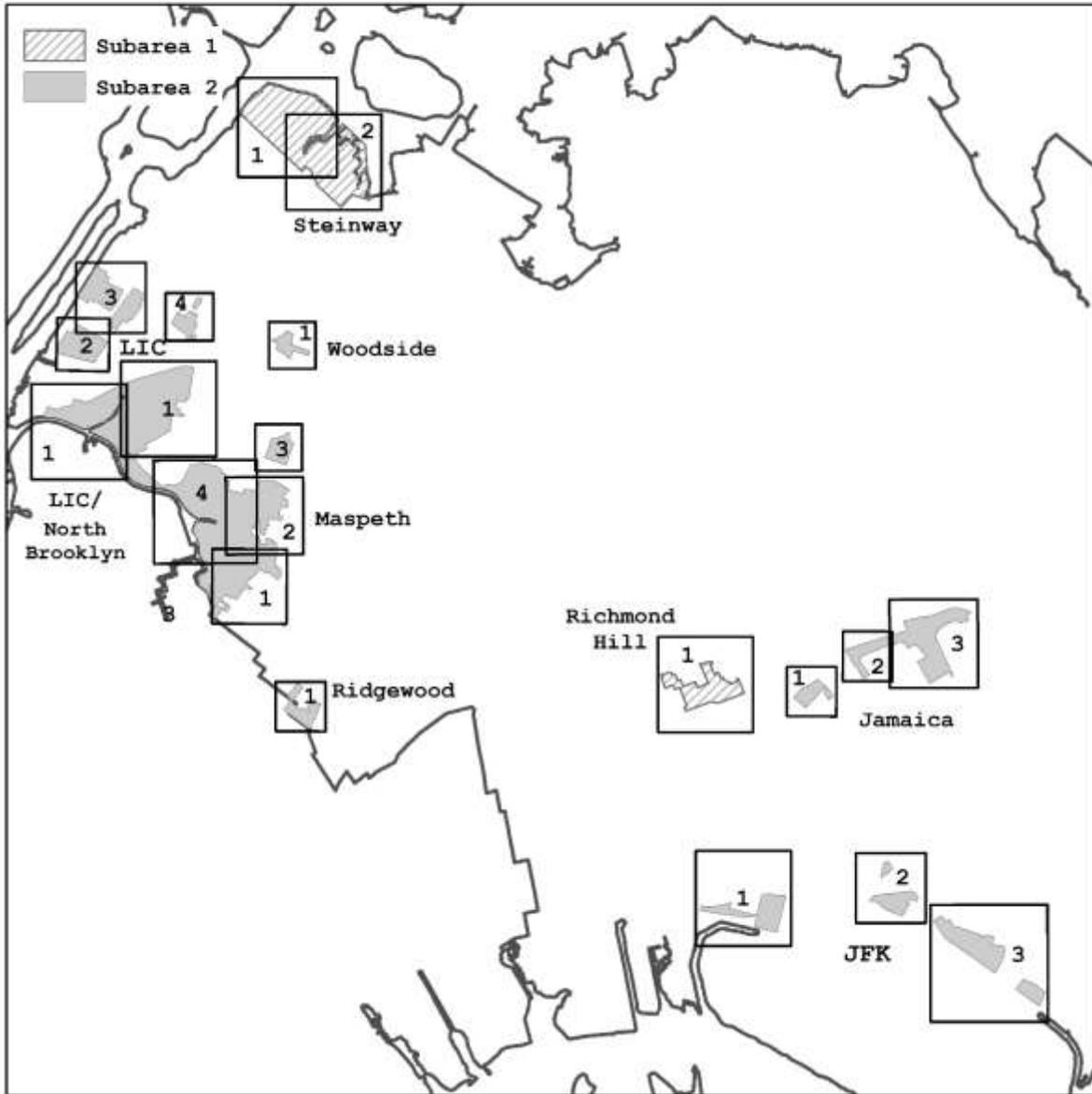
The numbers on this Index Map correspond with the map numbers for this borough.

Brooklyn



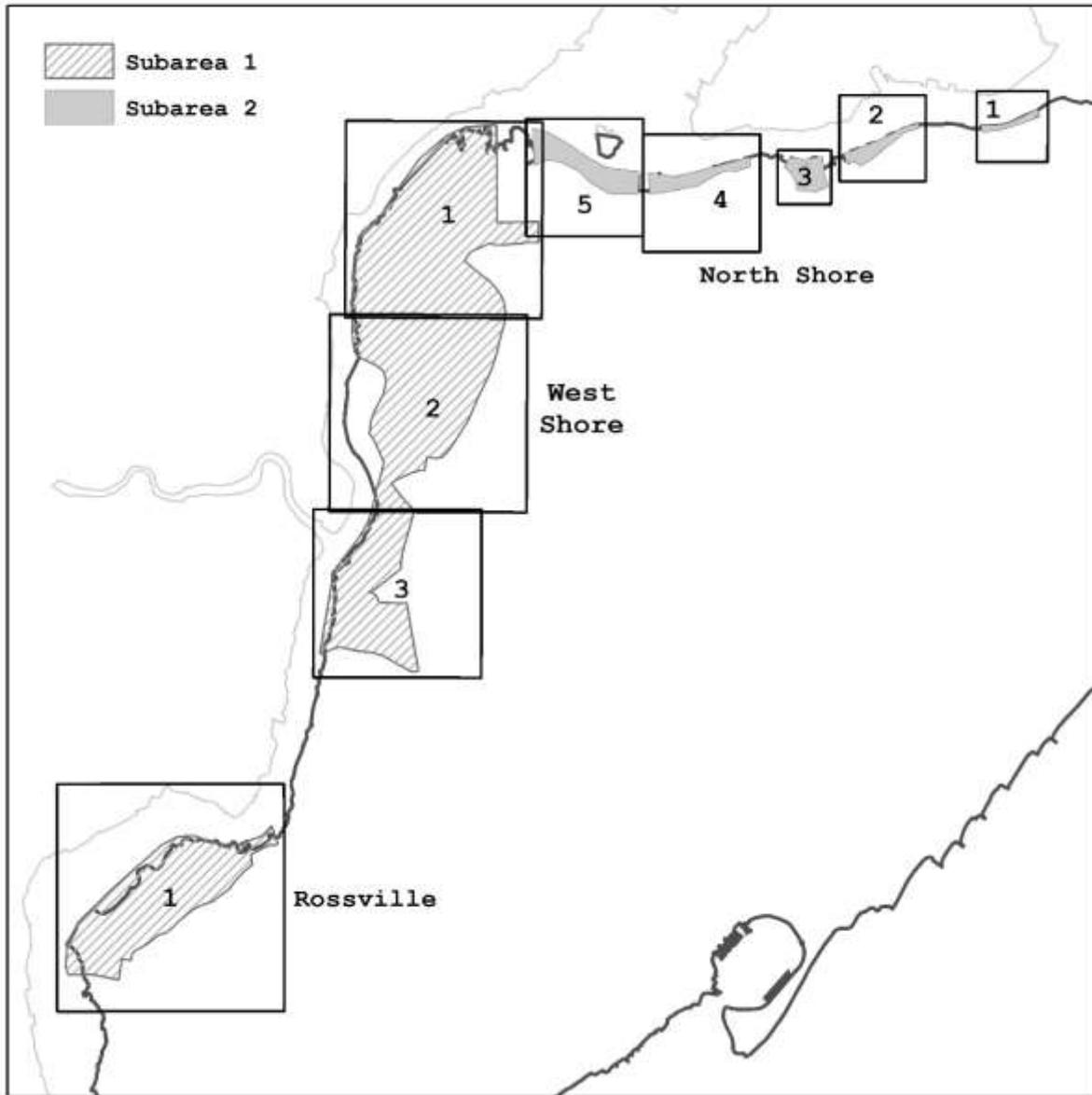
The numbers on this Index Map correspond with the map numbers for this borough.

Queens



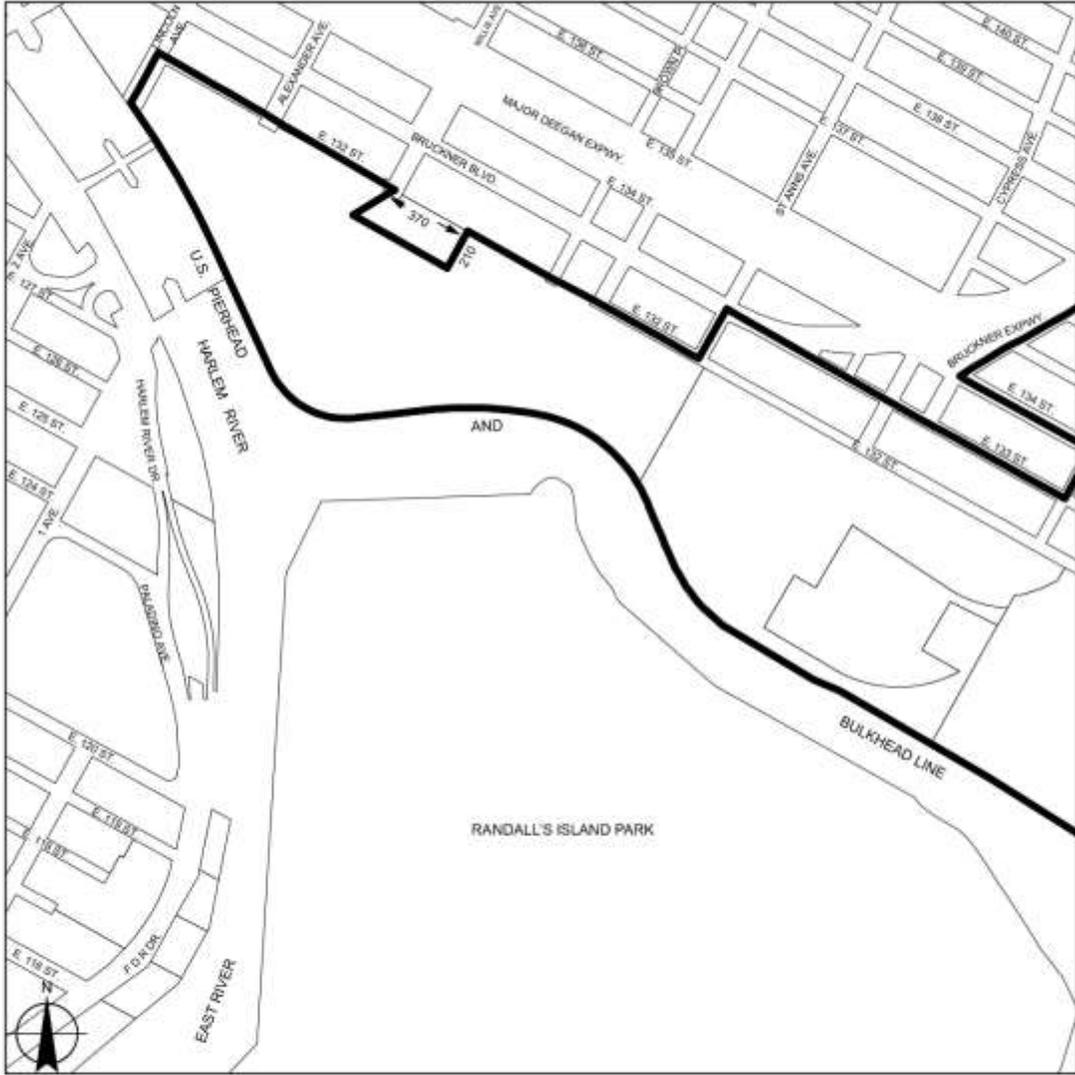
The numbers on this Index Map correspond with the map numbers for this borough.

Staten Island



The numbers on this Index Map correspond with the map numbers for this borough.

Port Morris
Map 2, Subarea 2



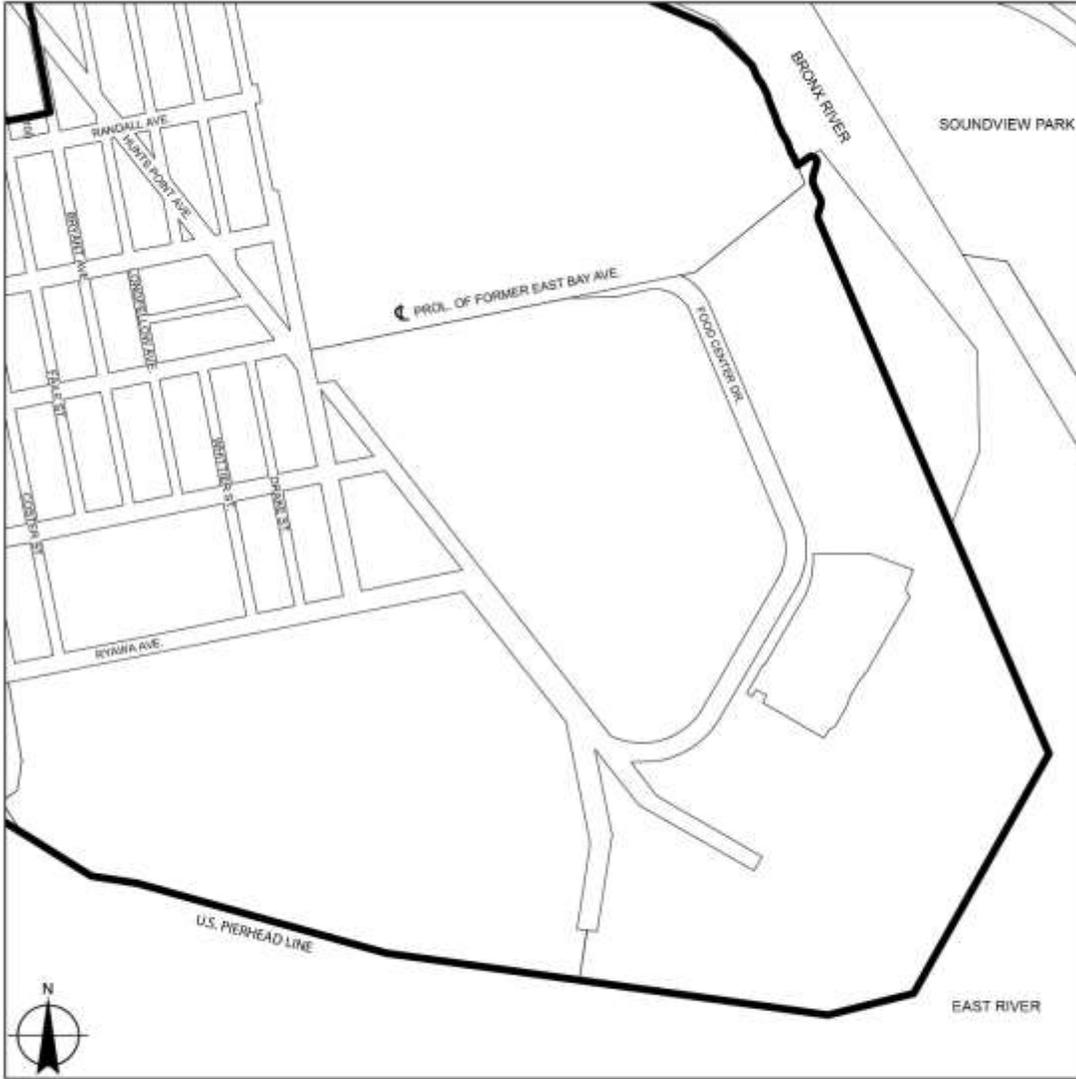
Portion of Community District 1, The Bronx.

Hunts Point
Map 1, Subarea 2



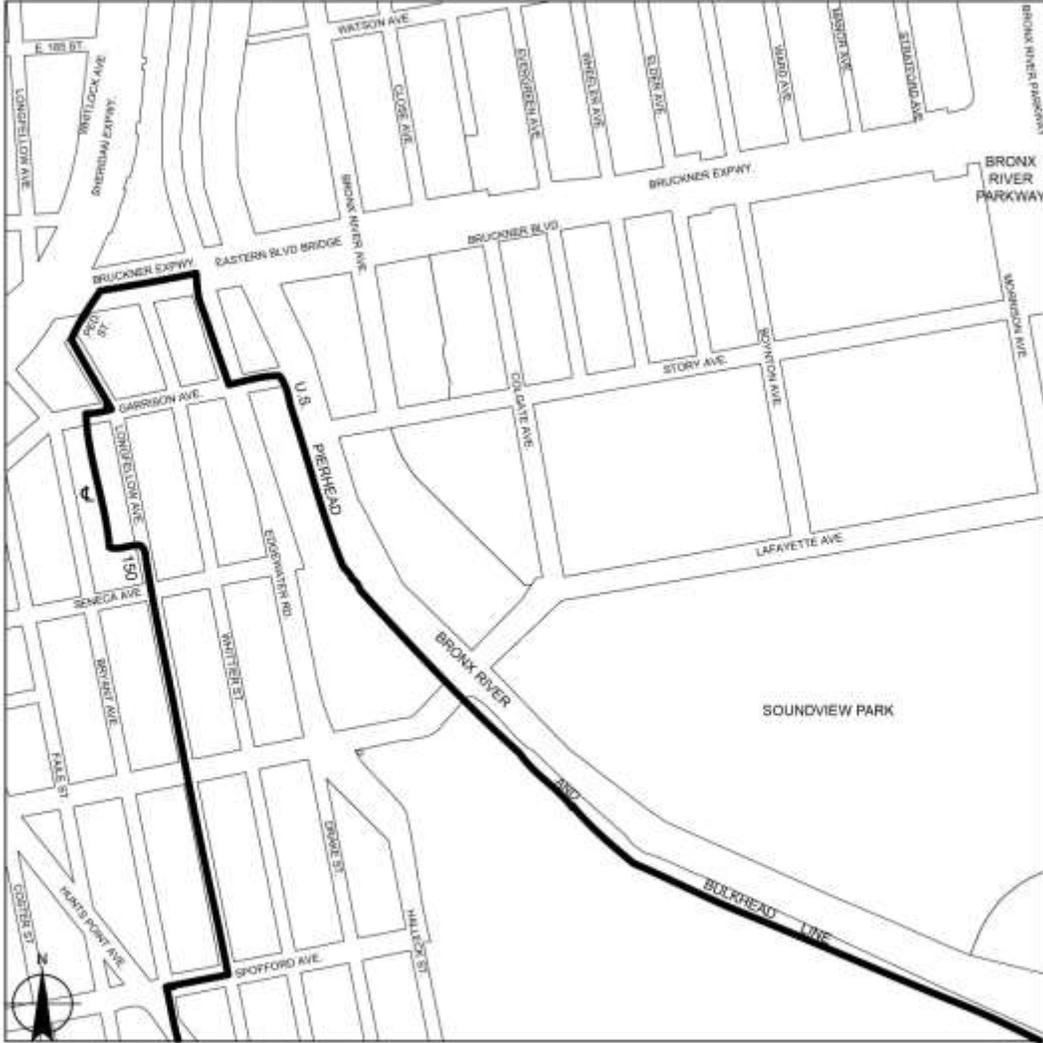
Portion of Community District 2, The Bronx

Hunts Point
Map 2, Subarea 2



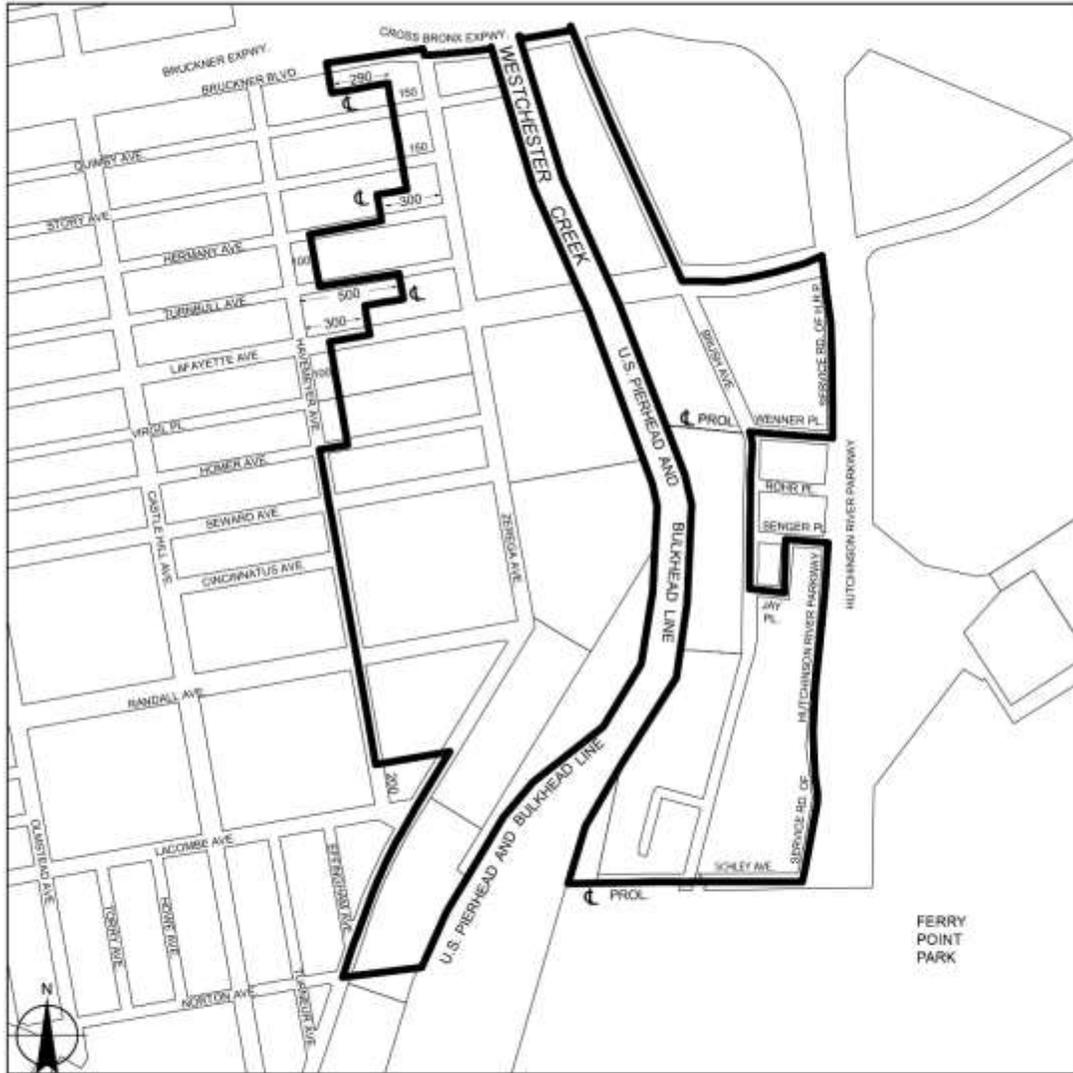
Portion of Community District 2, The Bronx

Hunts Point
Map 3, Subarea 2



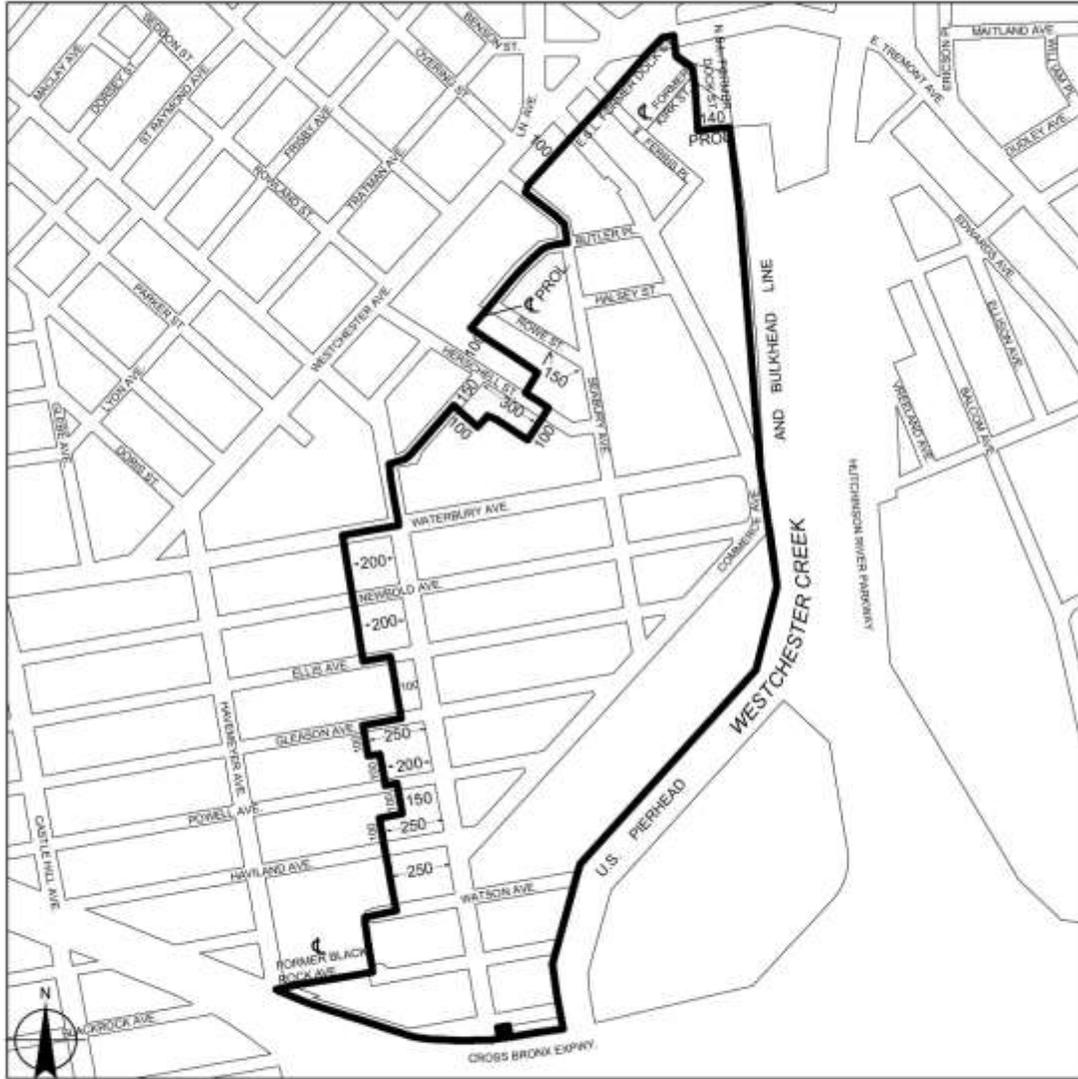
Portion of Community District 2, The Bronx

Zerega
Map 1, Subarea 2



Portion of Community District 9, The Bronx

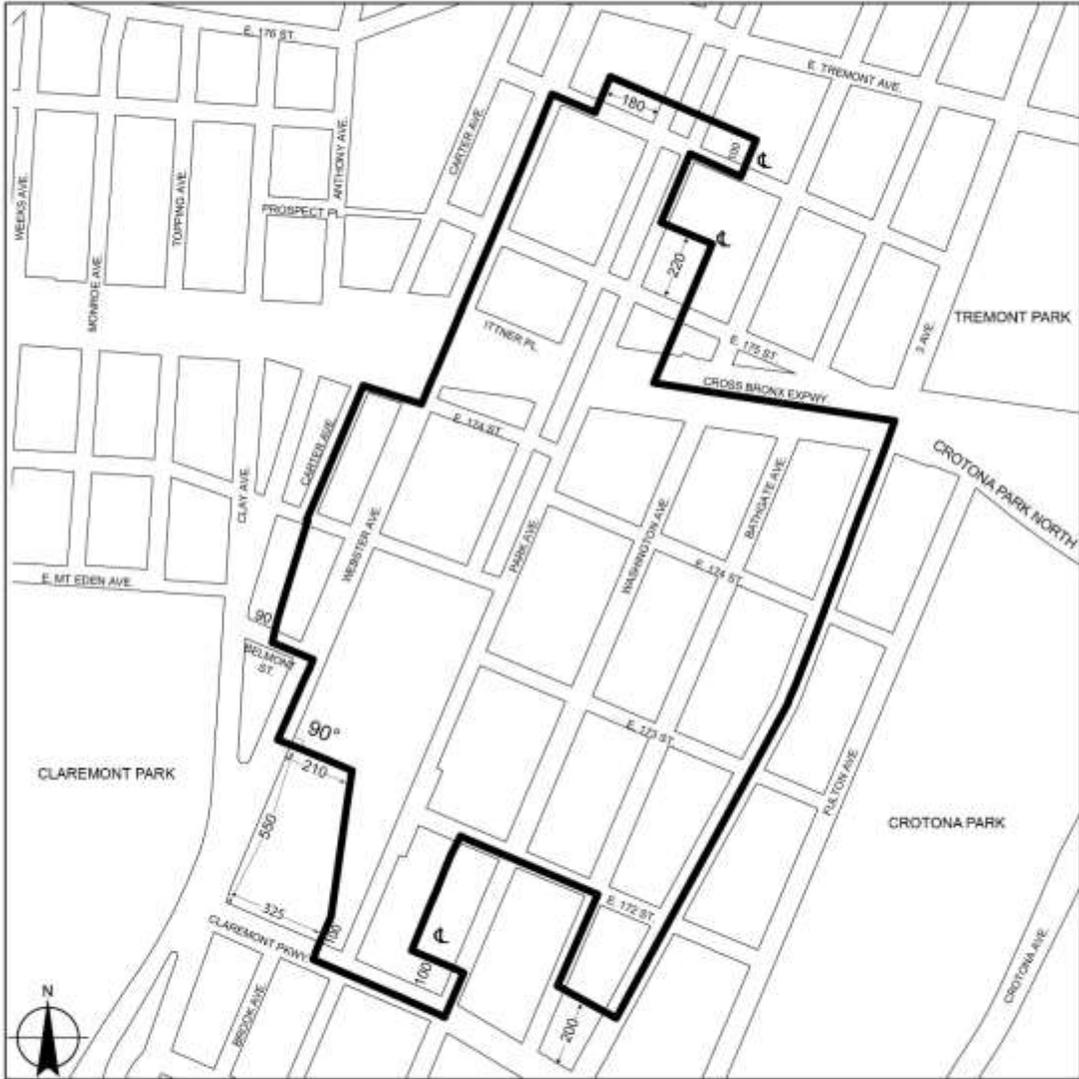
Zerega
Map 2, Subarea 2



Portions of Community Districts 9 and 10, The Bronx

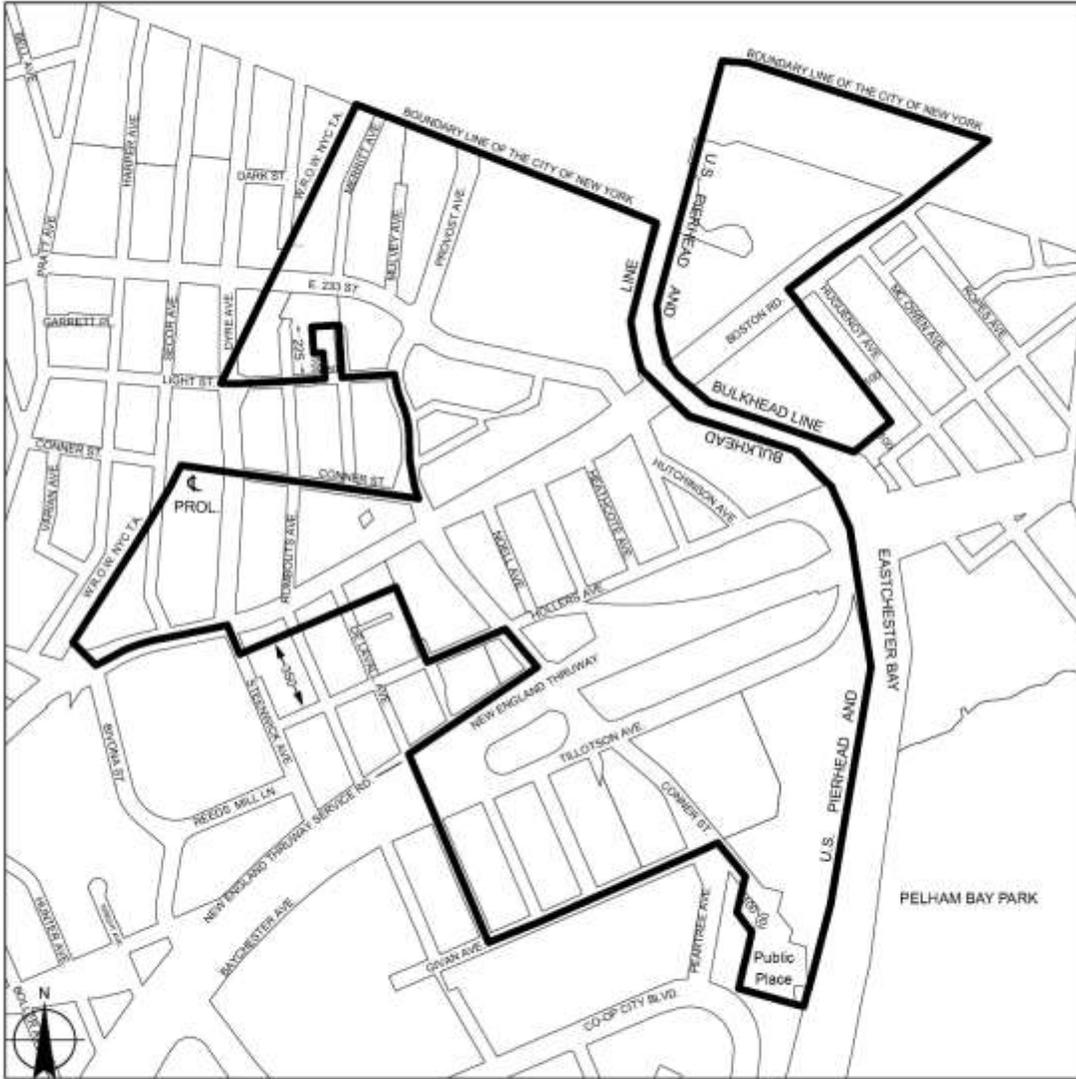
Bathgate

Map 1, Subarea 1



Portion of Community Districts 3, 4, and 6, The Bronx

Eastchester
Map 1, Subarea 2



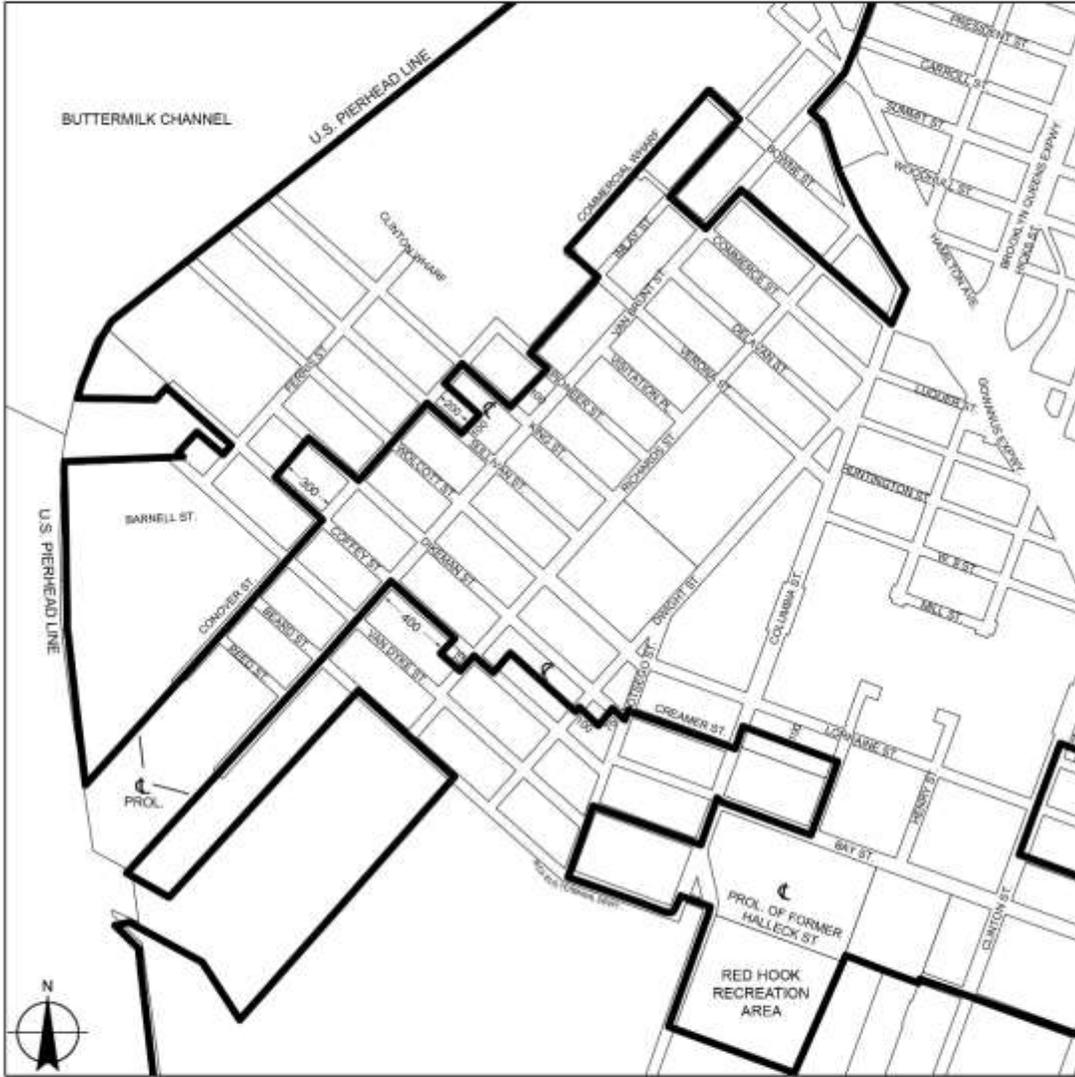
Portions of Community Districts 10 and 12, The Bronx

Southwest Brooklyn
Map 1, Subarea 2



Portion of Community District 6, Brooklyn

Southwest Brooklyn
Map 2, Subarea 2



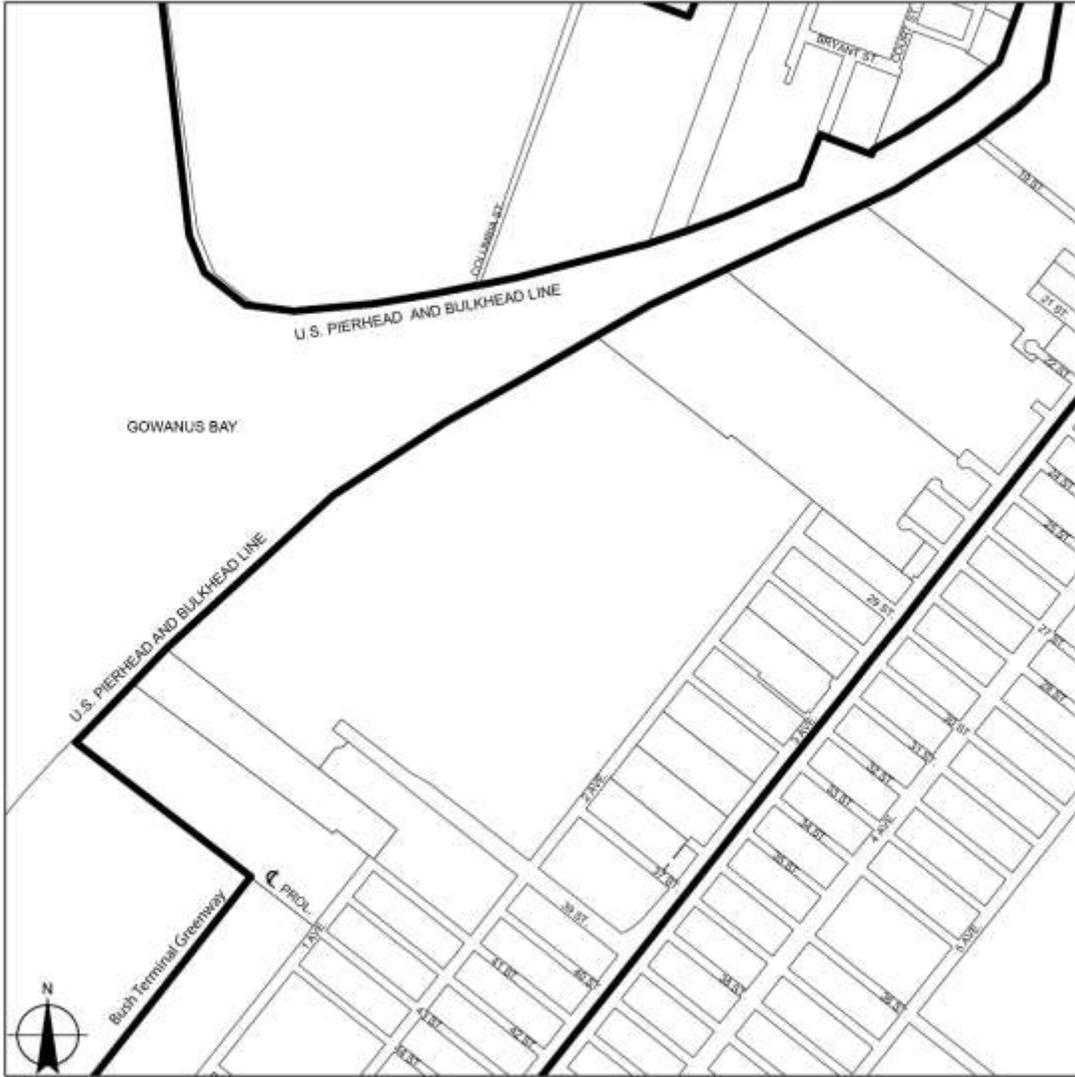
Portion of Community District 6, Brooklyn

Southwest Brooklyn
Map 3, Subarea 2



Portions of Community Districts 6 and 7, Brooklyn

Southwest Brooklyn
Map 4, Subarea 2



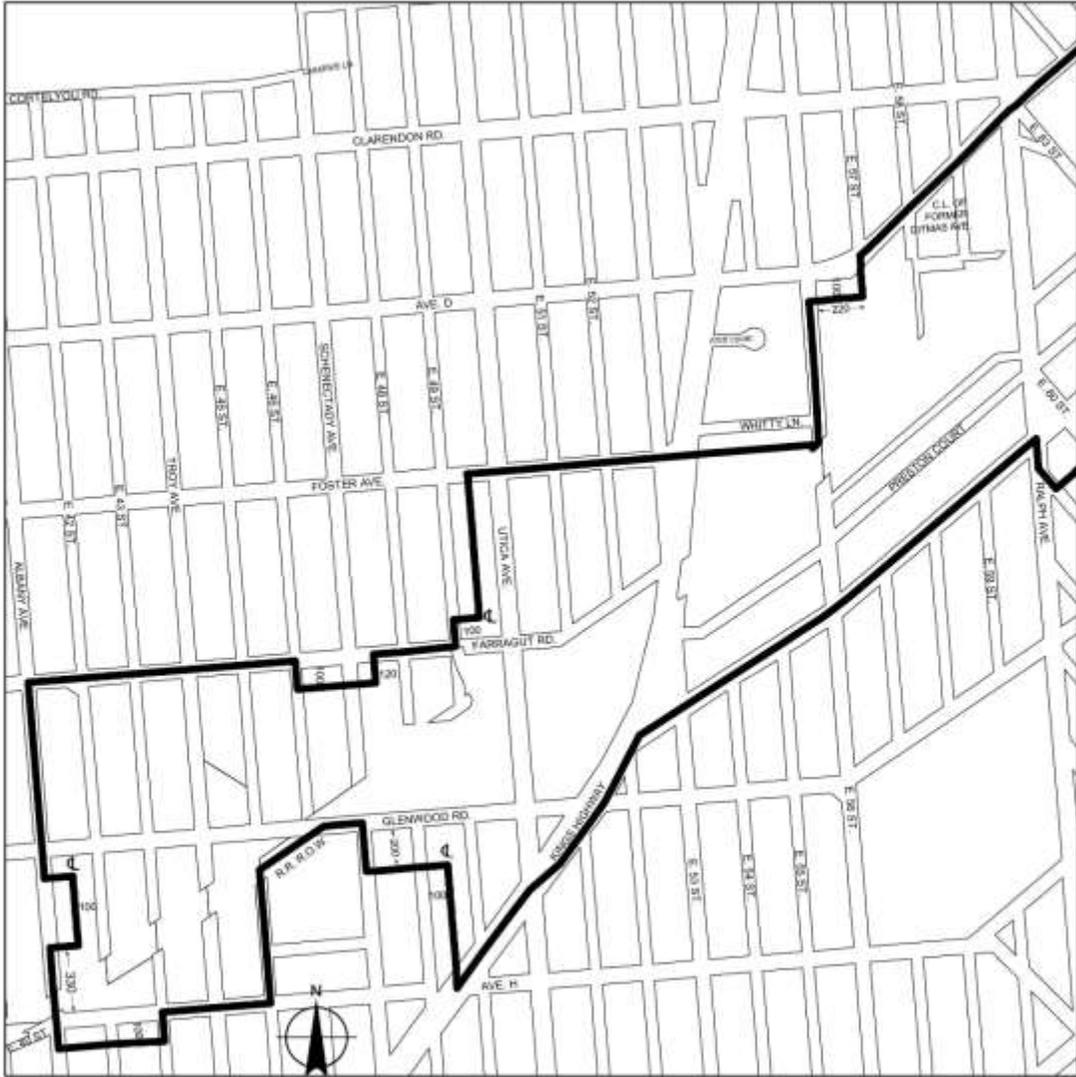
Portions of Community Districts 6 and 7, Brooklyn

Southwest Brooklyn
Map 5, Subarea 2



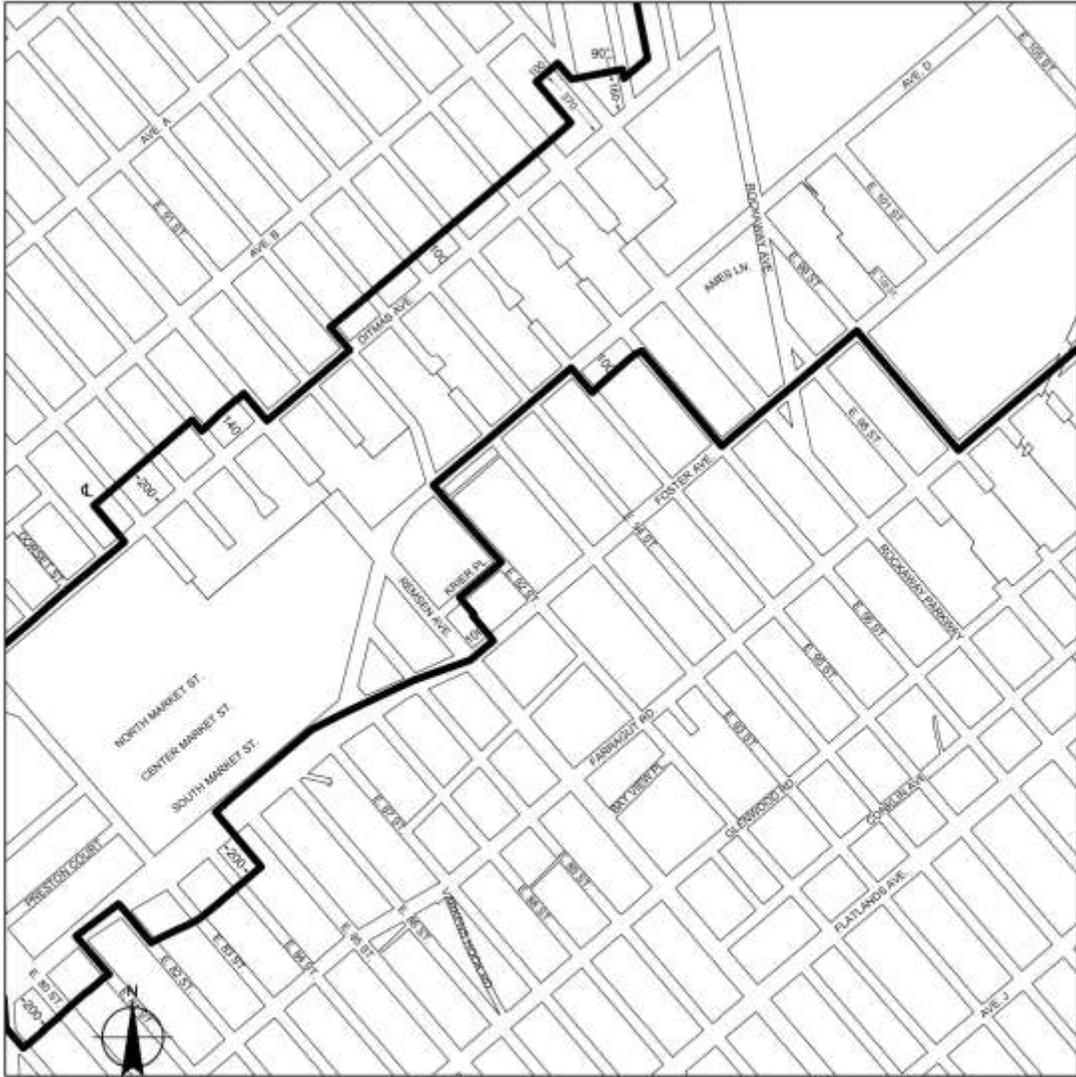
Portion of Community District 7, Brooklyn

Flatlands/Fairfield
Map 1, Subarea 2



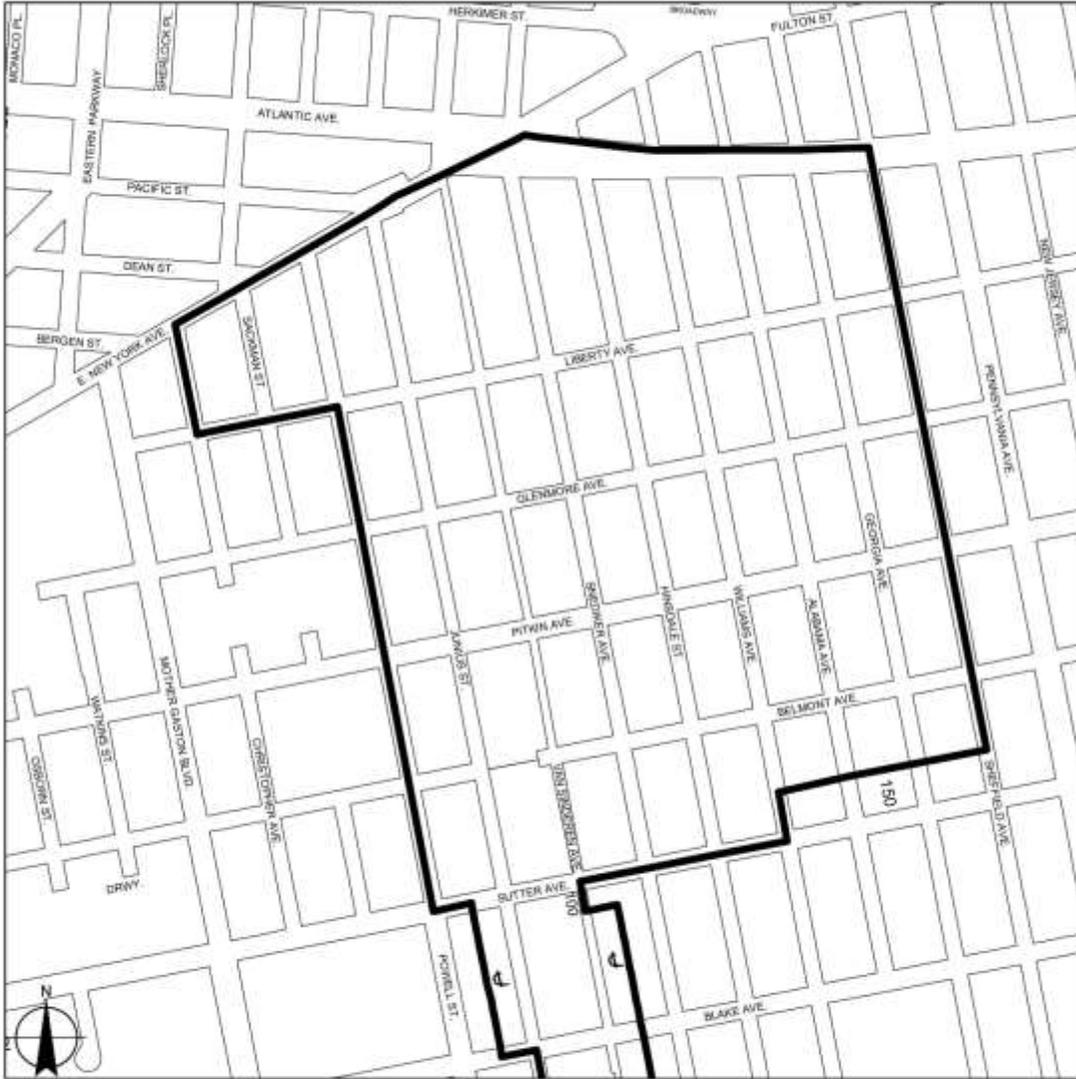
Portions of Community Districts 17 and 18, Brooklyn

Flatlands/Fairfield
Map 2, Subarea 2



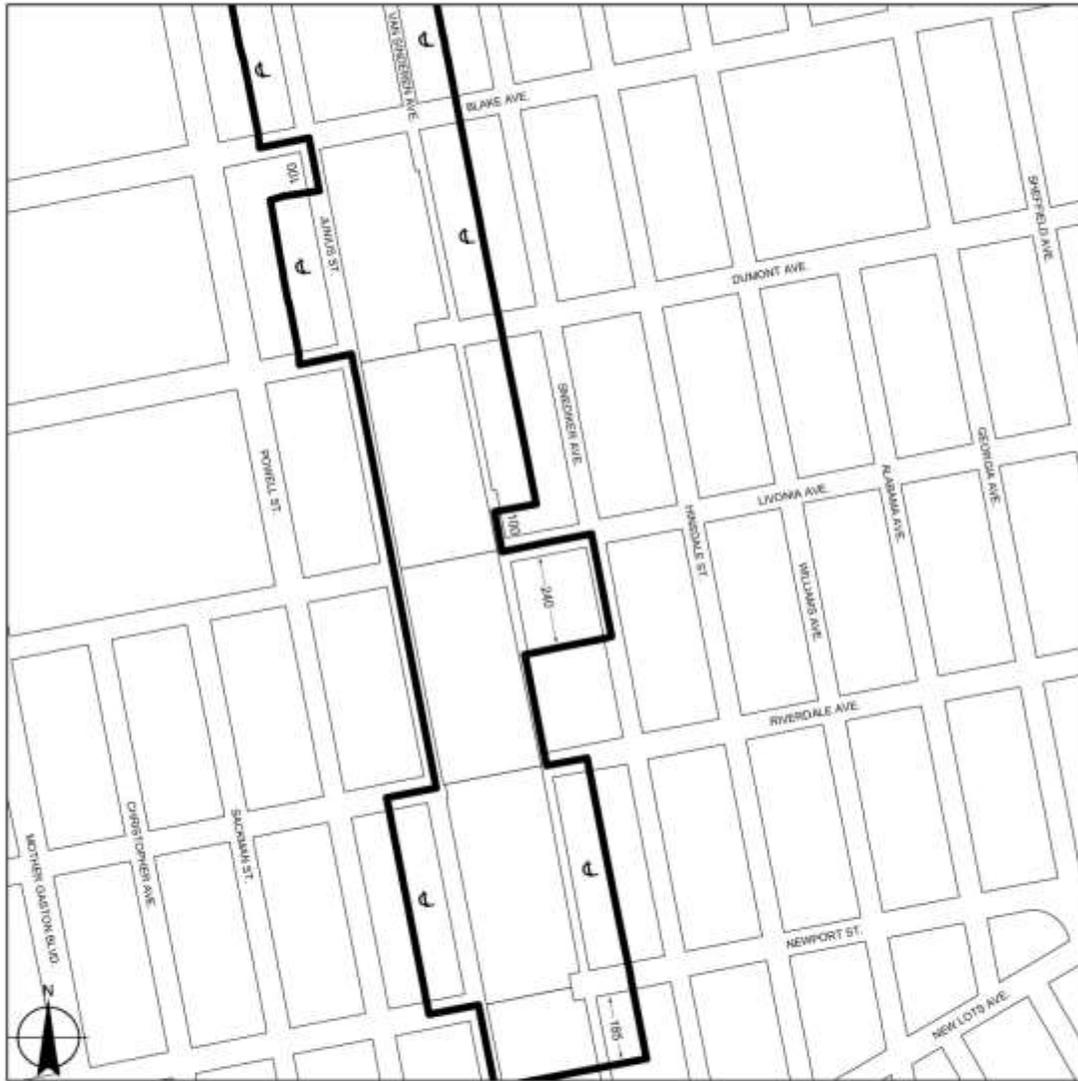
Portions of Community Districts 17 and 18, Brooklyn

East New York
Map 1, Subarea 2



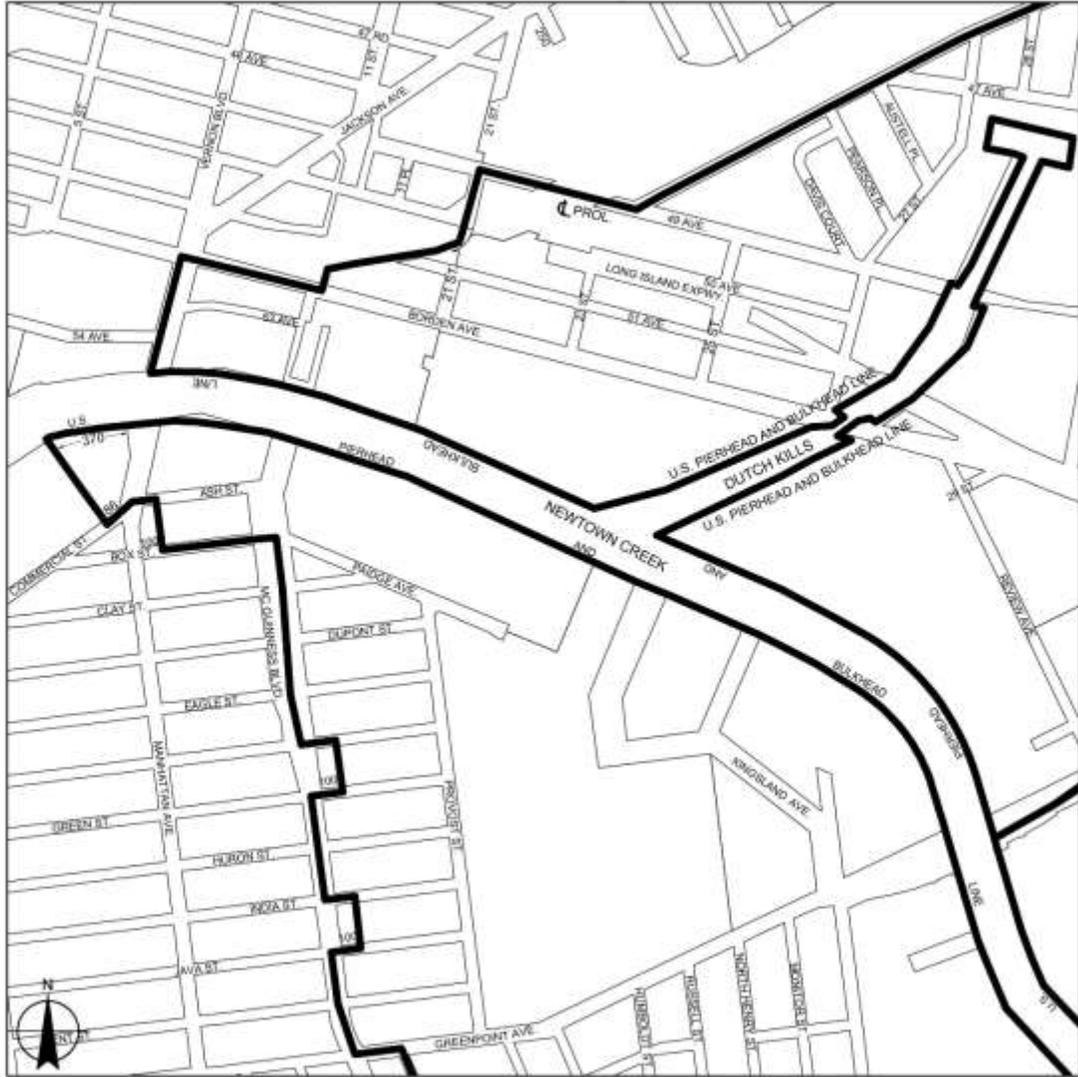
Portion of Community District 5, Brooklyn

East New York
Map 2, Subarea 2



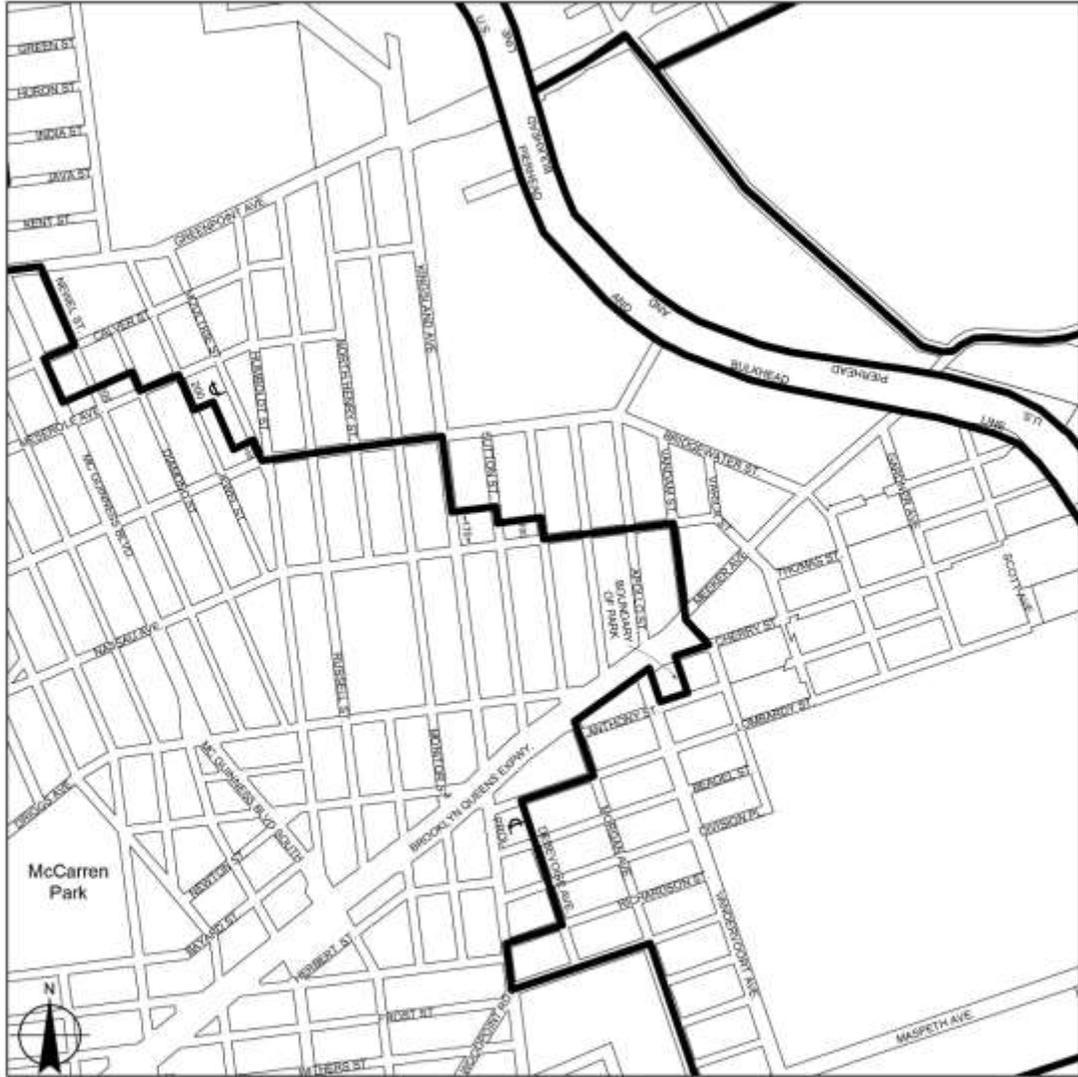
Portions of Community Districts 5 and 16, Brooklyn

North Brooklyn/Long Island City
Map 1, Subarea 2



Portions of Community District 1, Brooklyn and Community District 2, Queens

North Brooklyn/Maspeth
Map 2, Subarea 2



Portions of Community District 1, Brooklyn and Community District 2, Queens

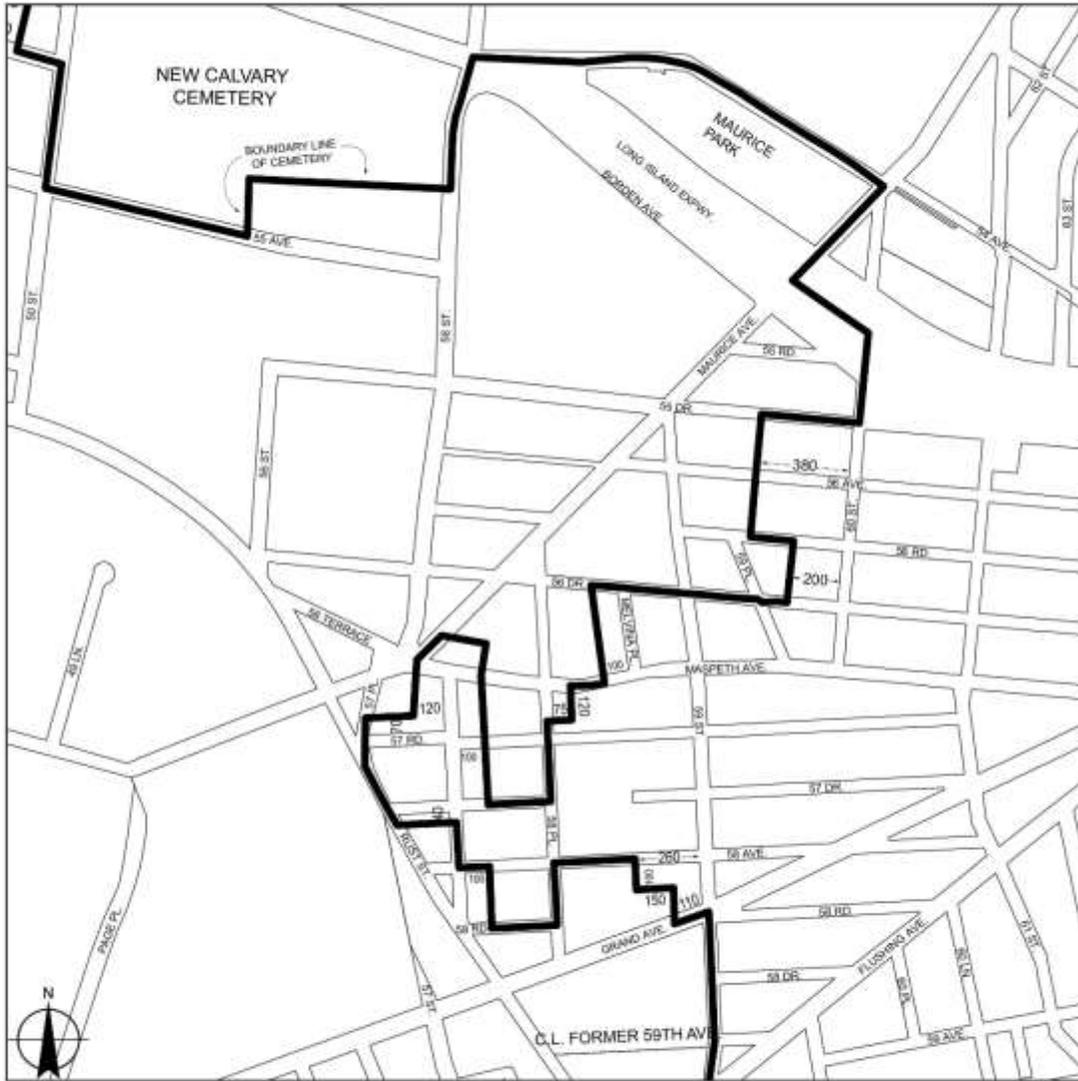
Maspeth
Map 1, Subarea 2



Portion of Community District 5, Queens

Maspeth

Map 2, Subarea 2



Portions of Community Districts 2 and 5, Queens

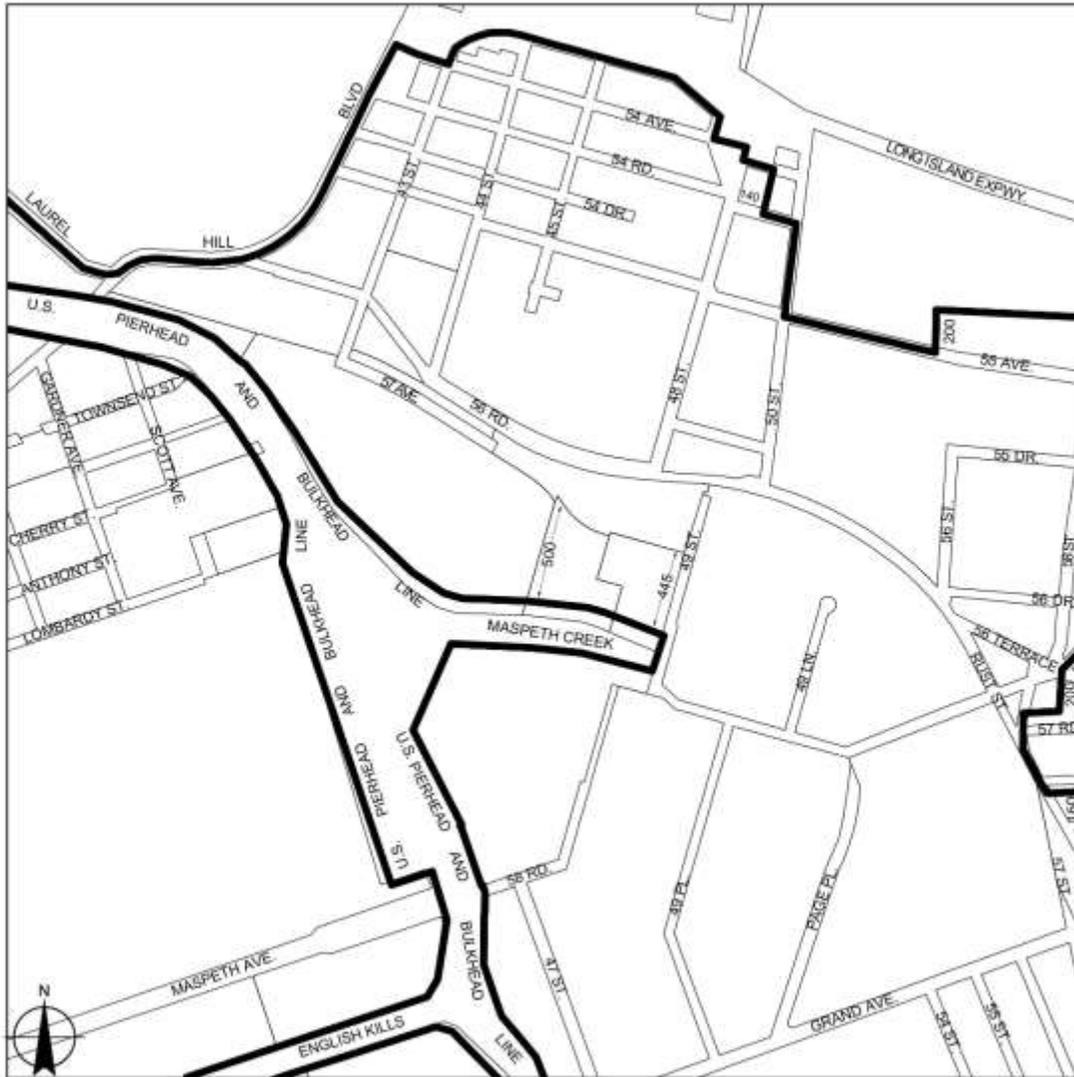
Maspeth

Map 3, Subarea 2



Portion of Community District 2, Queens

Maspeth/North Brooklyn
Map 4, Subarea 2



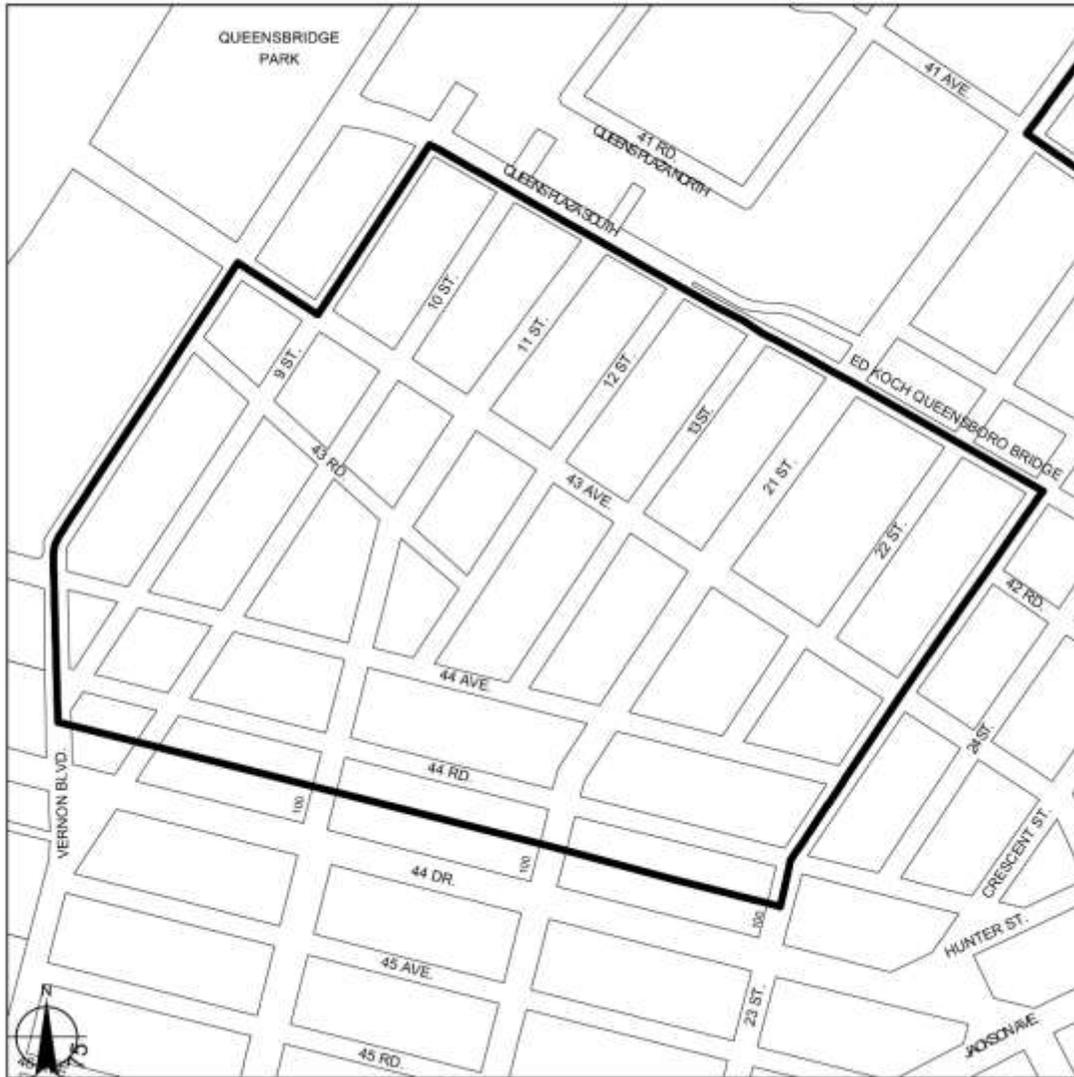
Portions of Community Districts 2 and 5, Queens and Community District 1, Brooklyn

Long Island City
Map 1, Subarea 2



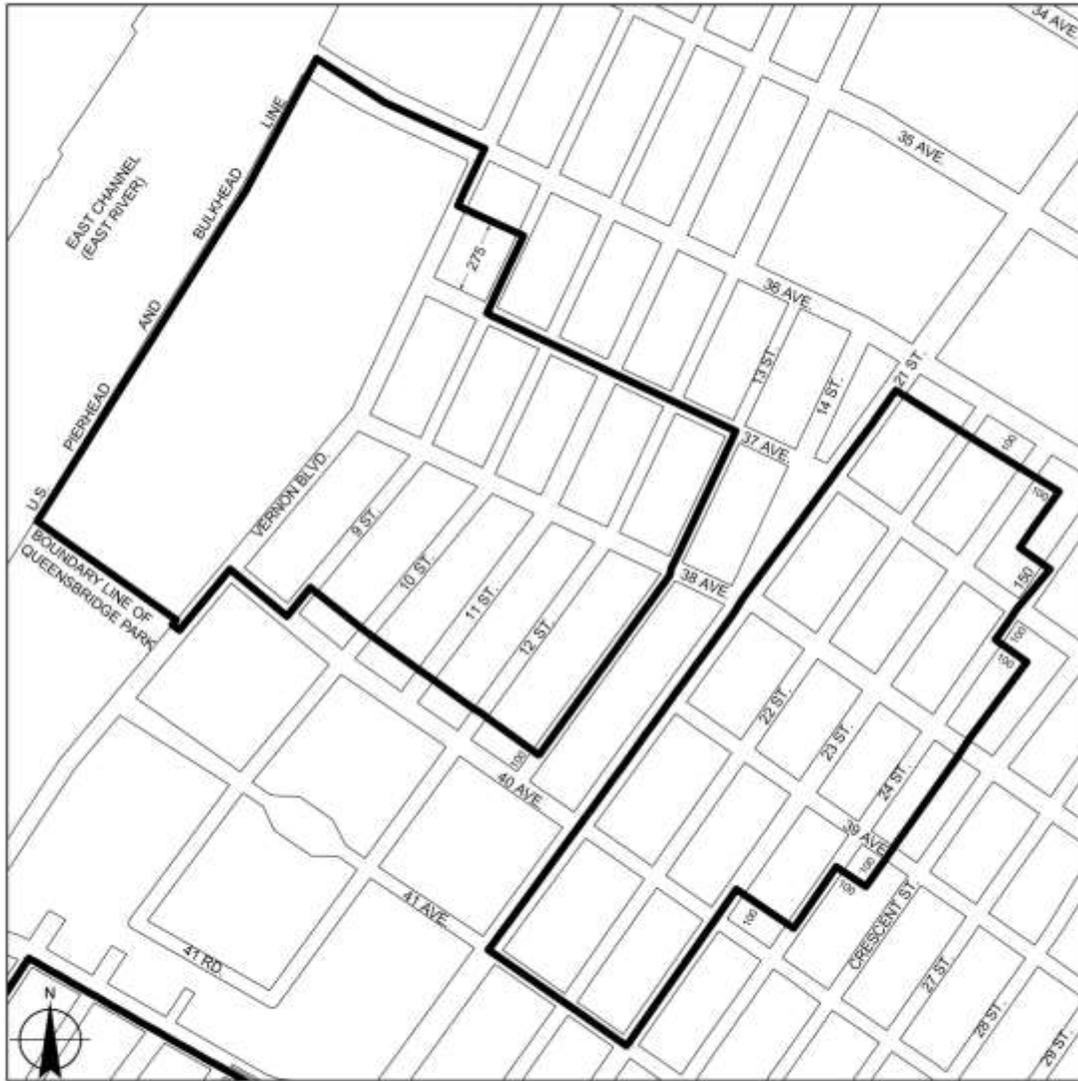
Portion of Community District 2, Queens

Long Island City
Map 2, Subarea 2



Portion of Community District 2, Queens

Long Island City
Map 3, Subarea 2



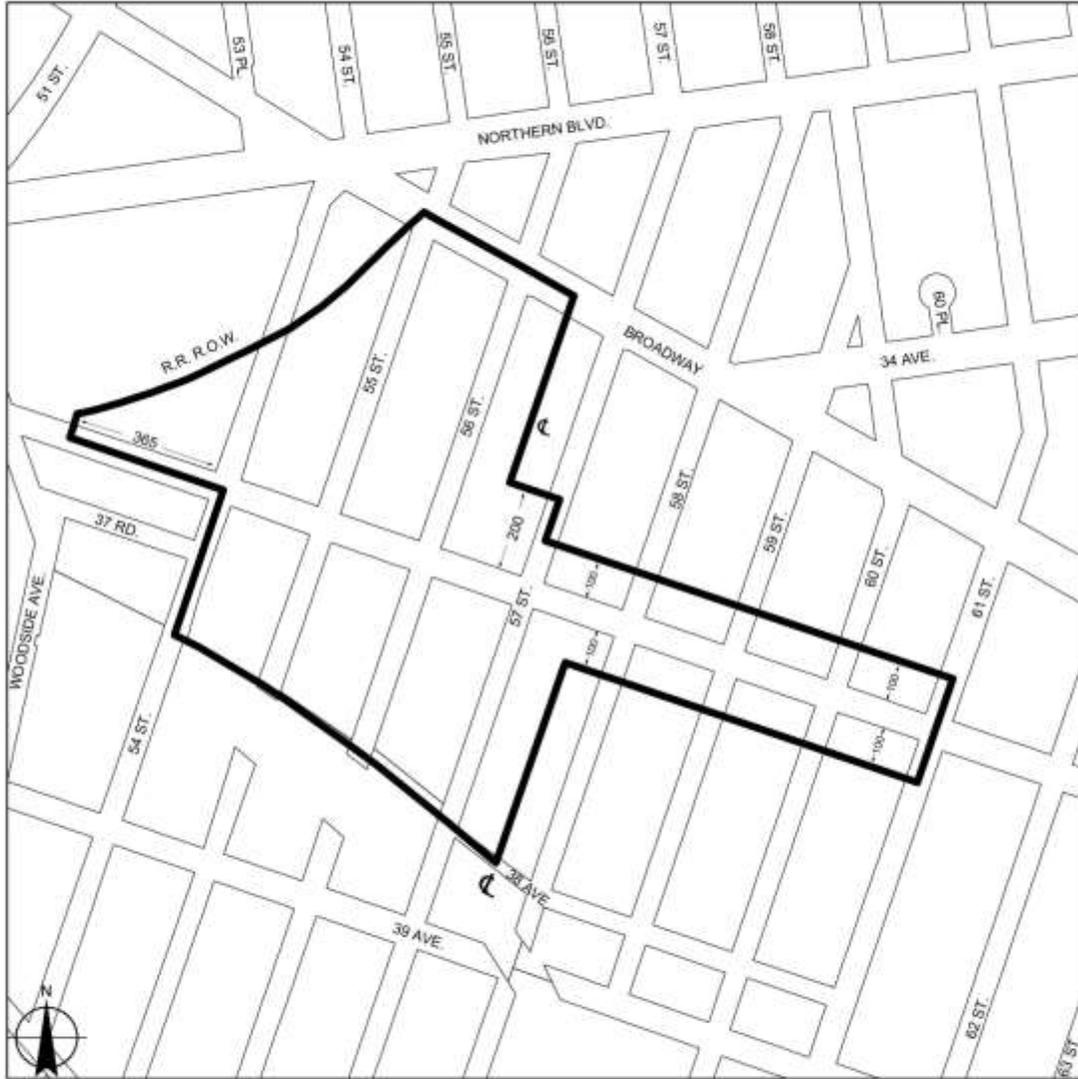
Portion of Community District 1, Queens

Long Island City
Map 4, Subarea 2



Portion of Community District 1, Queens

Woodside
Map 1, Subarea 2



Portion of Community District 2, Queens

Steinway
Map 1, Subarea 1



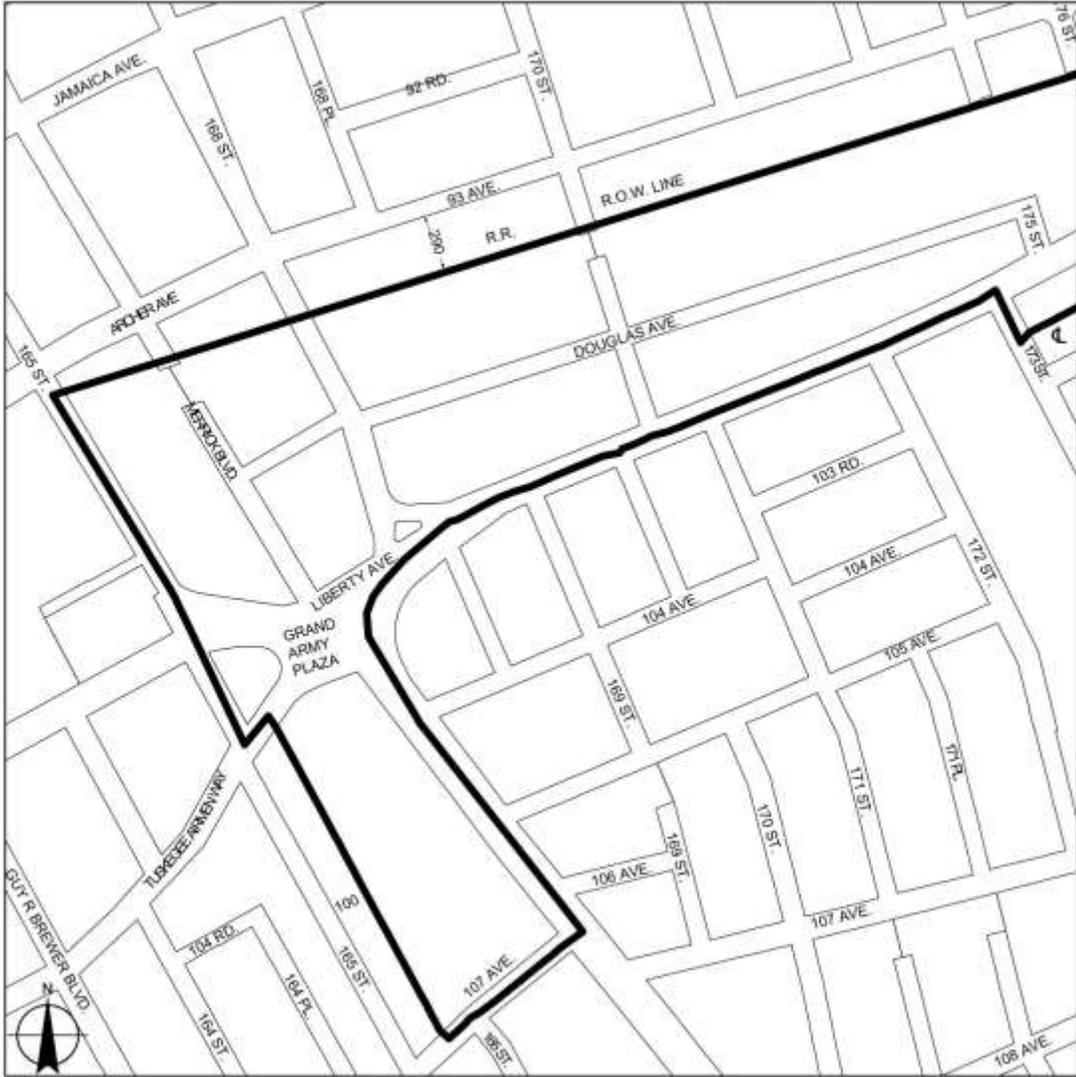
Portion of Community District 1, Queens

Steinway
Map 2, Subarea 1



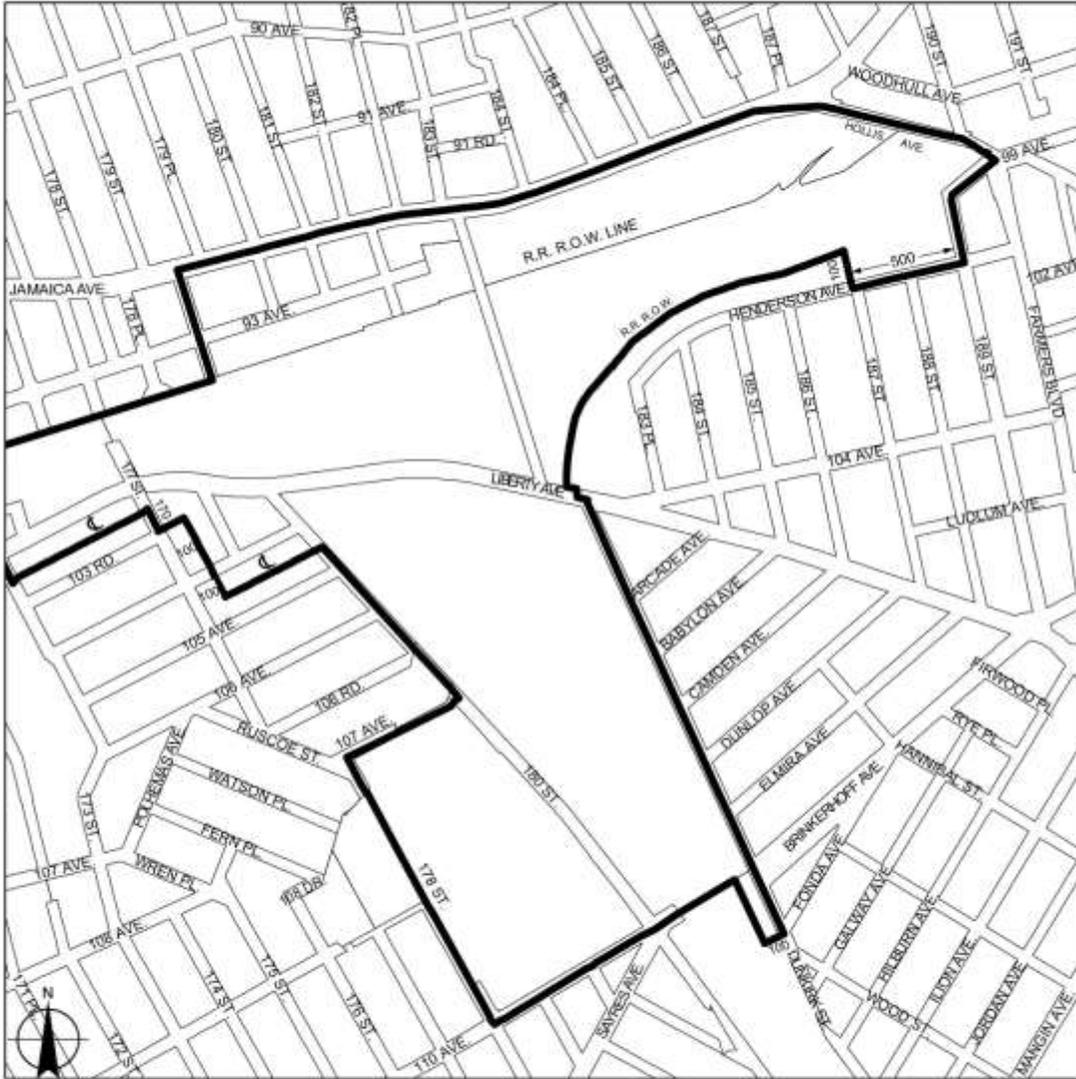
Portion of Community District 1, Queens

Jamaica
Map 2, Subarea 2



Portion of Community District 12, Queens

Jamaica
Map 3, Subarea 2



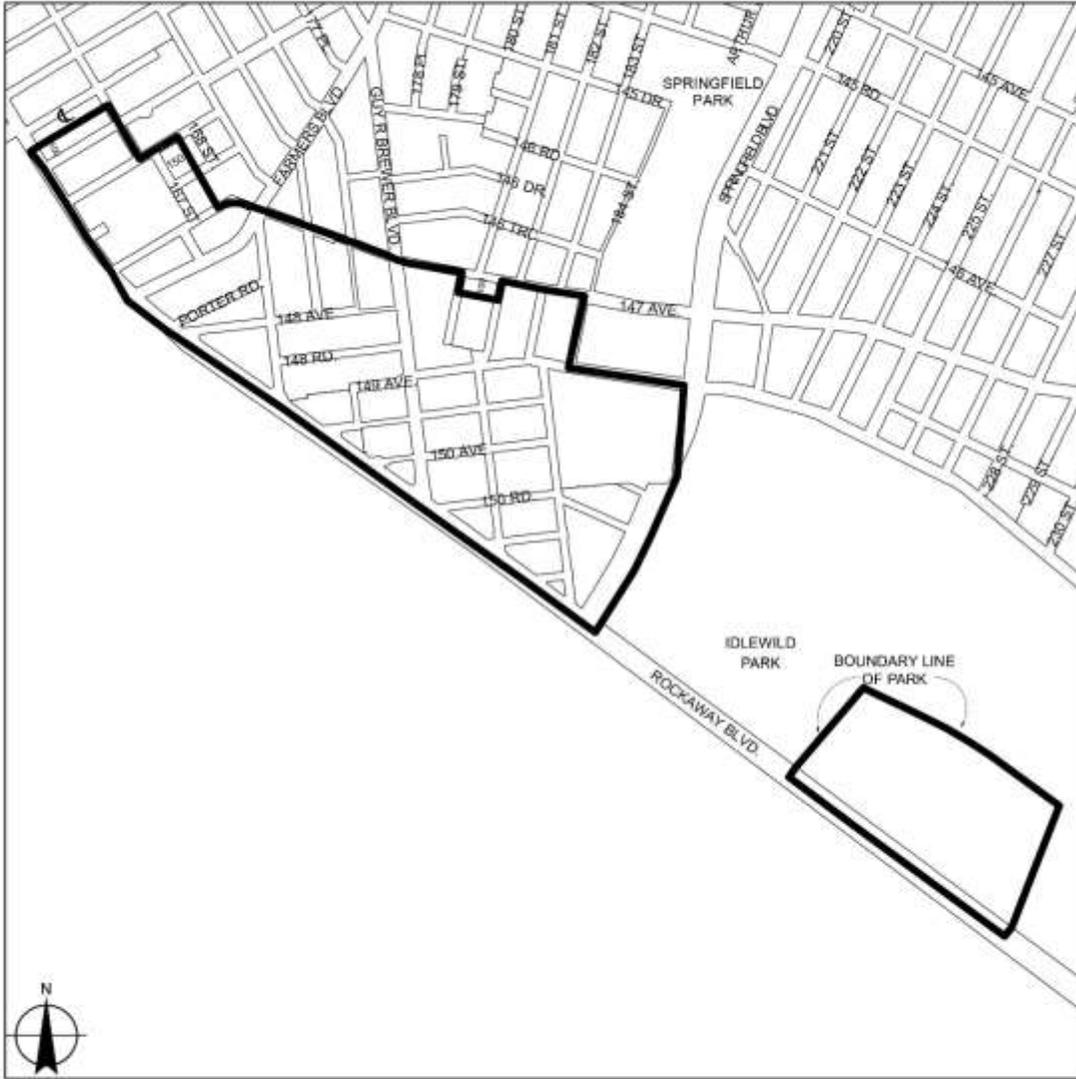
Portion of Community District 12, Queens

JFK
Map 2, Subarea 2



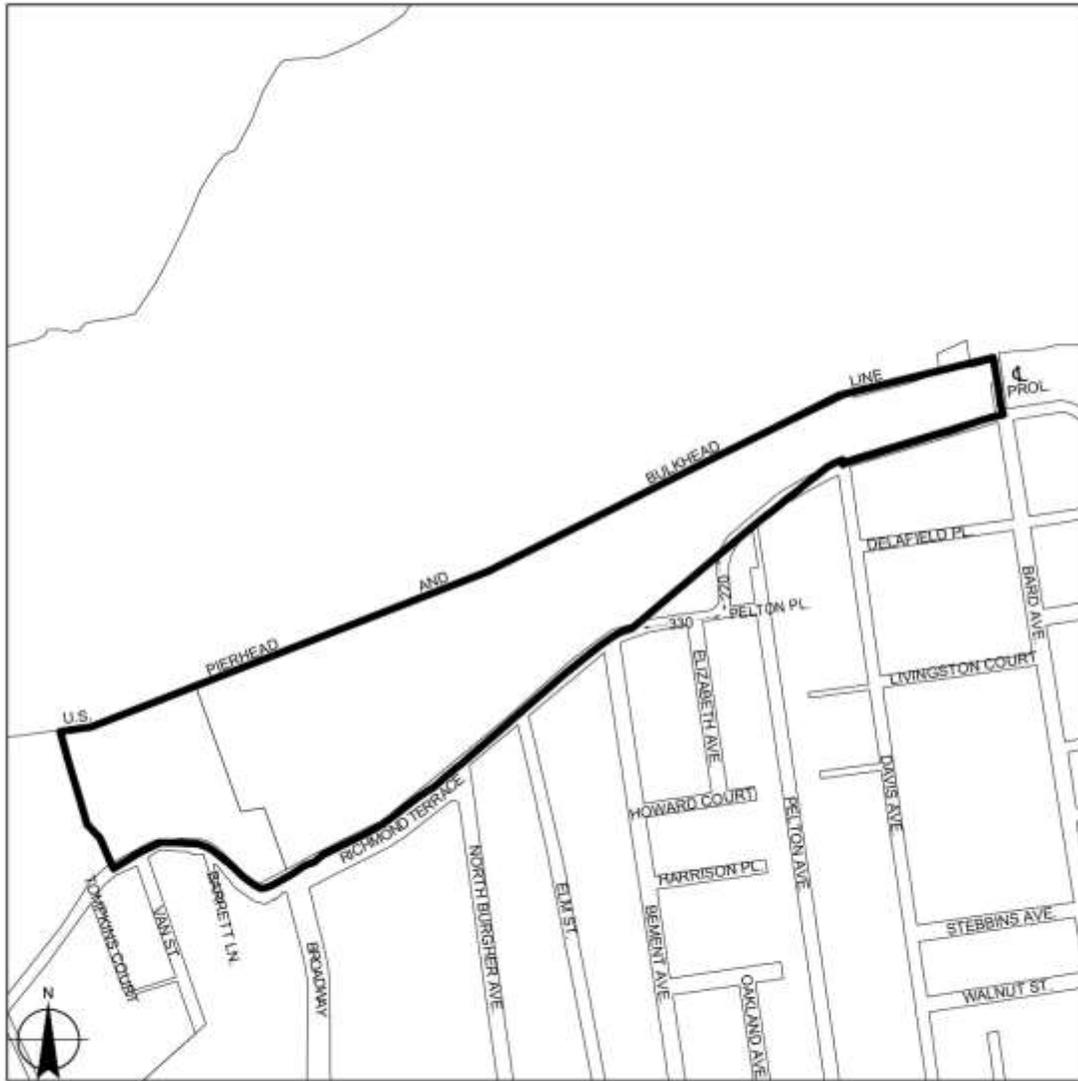
Portion of Community District 12, Queens

JFK
Map 3, Subarea 2



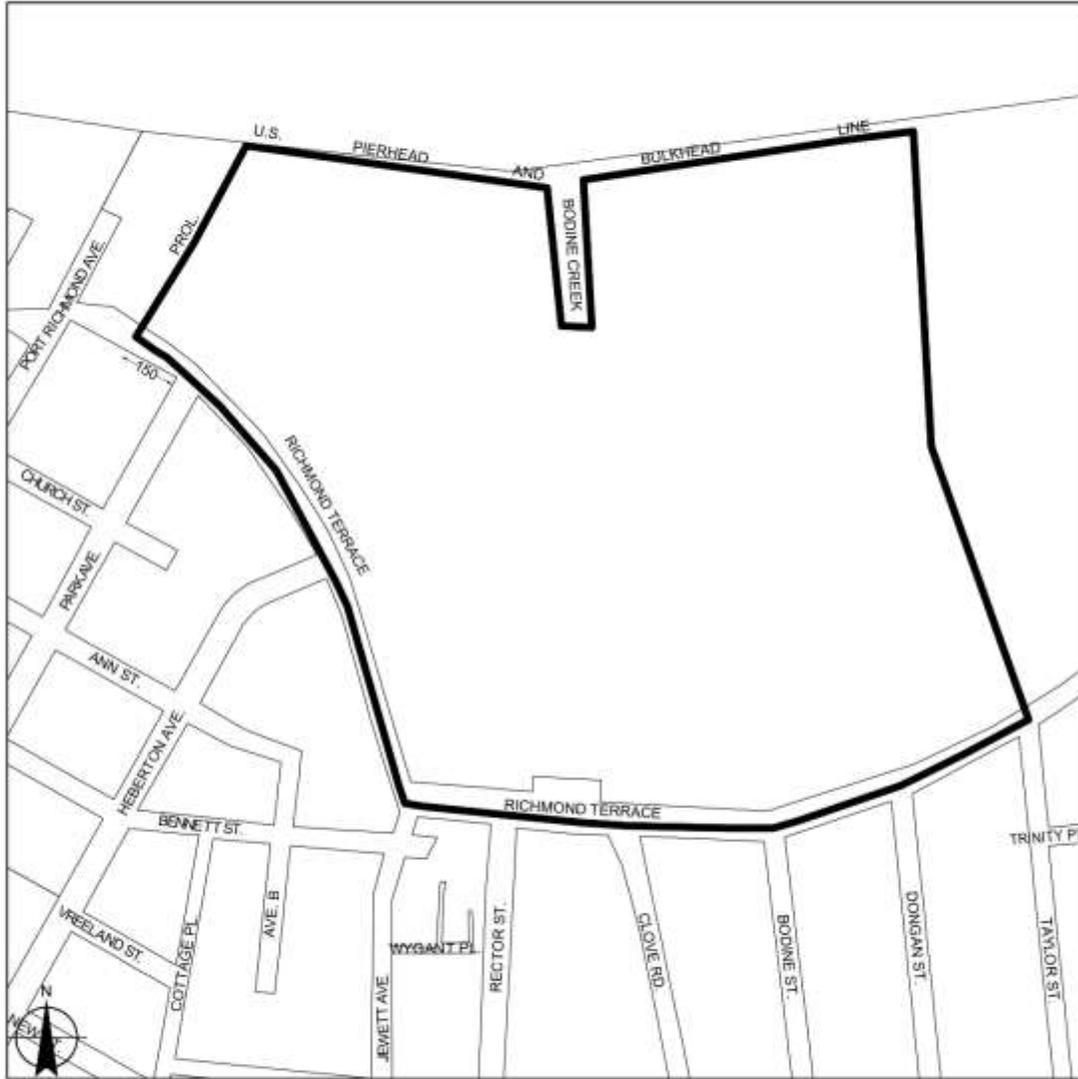
Portion of Community District 13, Queens

North Shore
Map 2, Subarea 2



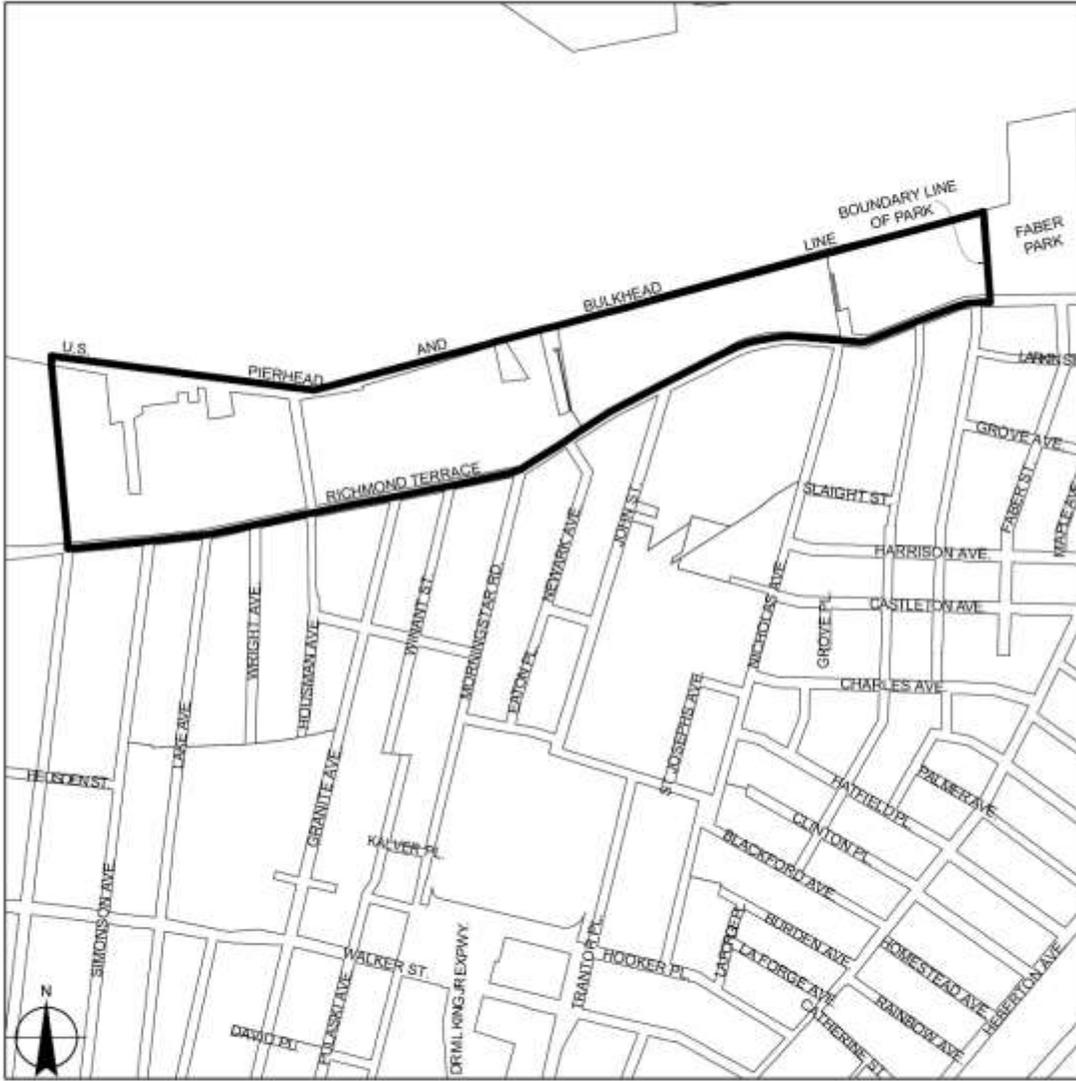
Portion of Community District 1, Staten Island

North Shore
Map 3, Subarea 2



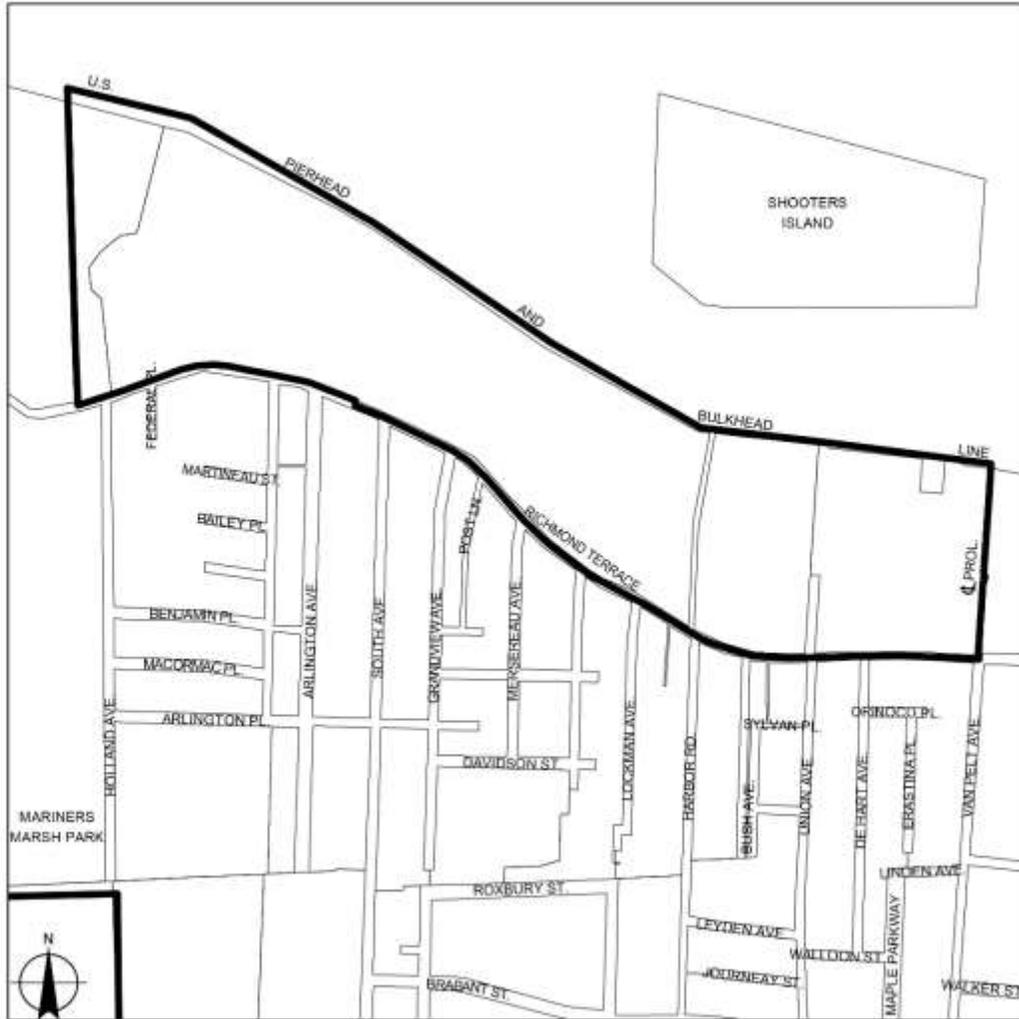
Portion of Community District 1, Staten Island

North Shore
Map 4, Subarea 2



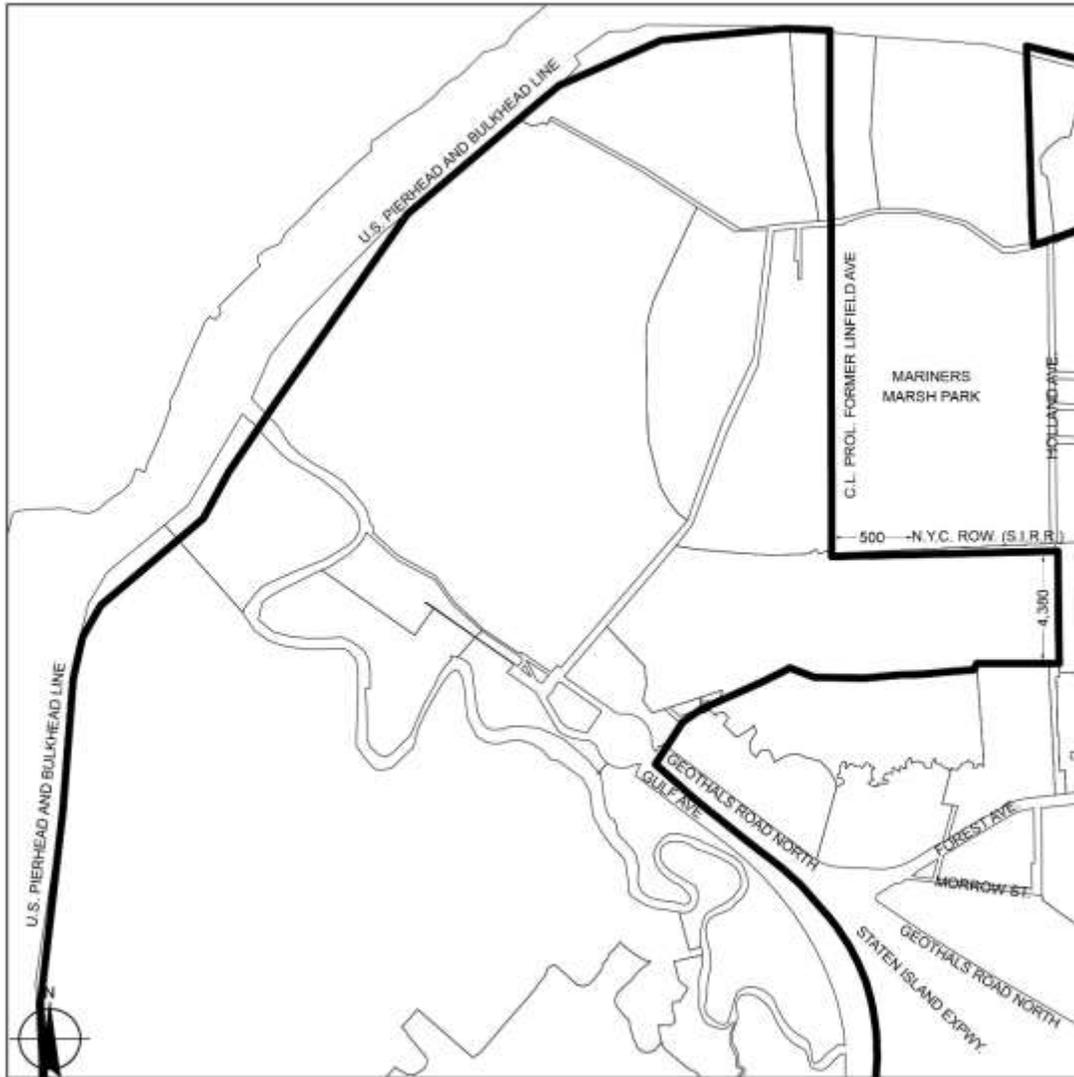
Portion of Community District 1, Staten Island

North Shore
Map 5, Subarea 2



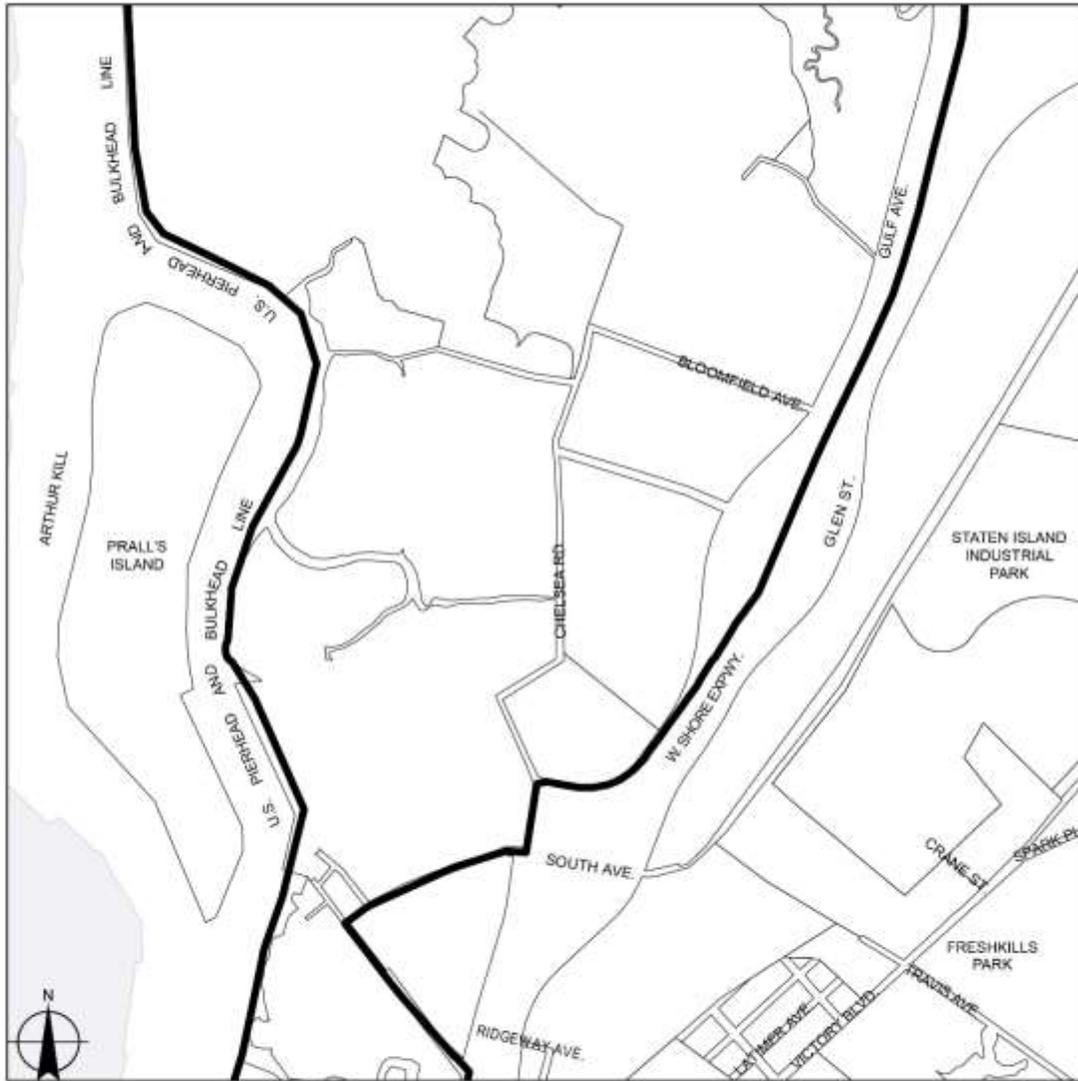
Portion of Community District 1, Staten Island

West Shore
Map 1, Subarea 1



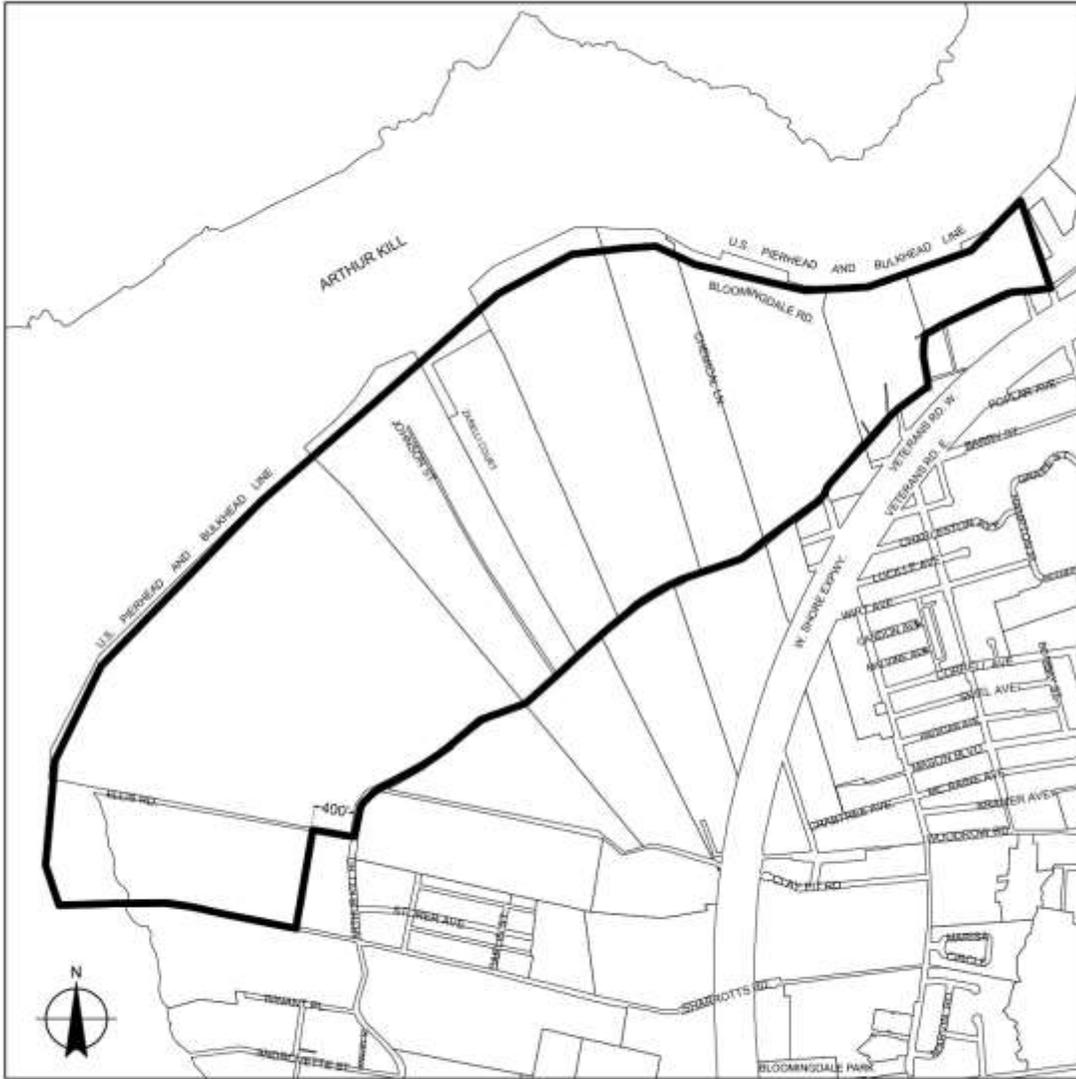
Portion of Community District 1, Staten Island

West Shore
Map 2, Subarea 1



Portion of Community District 2, Staten Island

Rossville
Map 1, Subarea 1



Portion of Community District 3, Staten Island

DAVID G. GREENFIELD, *Chairperson*; VINCENT J. GENTILE, ANNABEL PALMA, DANIEL R. GARODNICK, ROSIE MENDEZ, BRADFORD S. LANDER, STEPHEN T. LEVIN, DEBORAH L. ROSE, JUMAANE D. WILLIAMS, DONOVAN J. RICHARDS, INEZ D. BARRON, ANDREW COHEN, BEN KALLOS, ANTONIO REYNOSO, MARK TREYGER; BARRY S. GRODENCHIK, RAFAEL SALAMANCA, Jr.; Committee on Land Use, December 7, 2017. *Other Council Members Attending: Council Members Perkins and Chin.*

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).

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:

<i>Approved New Applicants</i>		
<i>Name</i>	<i>Address</i>	<i>District #</i>
Hannah Sampson	649 East 9th Street #1C New York, New York 10009	2
Rosemarie C. Vargas	228 East 3rd Street #2D New York, New York 10009	2
Kathleen Maria Hernandez	506 West 135th Street #34 New York, New York 10031	7
Renee Shaw	2029 Lafontaine Avenue #4B Bronx, New York 10457	15
Peter Coritsidis	257 Gold Street #3P Brooklyn, New York 11201	33
Adrienne Girard	1086 President Street #25 Brooklyn, New York 11225	35
Morgan Galloway	685 Park Place #2 Brooklyn, New York 11216	35
Nilsa Toledo	244 Sumpter Street #3R Brooklyn, New York 11233	41
Yan Kabilov	3110 Brighton 4th Street #1A Brooklyn, New York 11235	48

Vanessa S. Saulo-Canelo	123 Perry Avenue Staten Island, New York 10314	50
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Approved Reapplicants

<i>Name</i>	<i>Address</i>	<i>District #</i>
Elba Feliciano	55 Rutgers Street #7B New York, N.Y. 10002	1
Ellen T. Pine	245 East 25th Street #7L New York, N.Y. 10010	2
Martin J. Barrett	440 East 57th Street #6C New York, N.Y. 10022	5
Kelly Francis Callahan	315 East 70th Street #3J New York, N.Y. 10021	5
Pamela M. Gilbert	331 East 132nd Street #2F Bronx, N.Y. 10454	8
Rosa G. Diaz	1951 Park Avenue #N607 New York, N.Y. 10037	9
Sherry Johnson-O'Neal	101 West 147th Street #150 New York, N.Y. 10039	9
Susan Perez	310 West 143rd Street #12E New York, N.Y. 10030	9
Daisy DeJesus	15 Wadsworth Avenue #2E New York, N.Y. 10033	10
Denise Cruickshank	100 Debs Place #10D Bronx, N.Y. 10475	12
Jaelyn Souhrada	820 Astor Avenue #3B Bronx, N.Y. 10467	13
Diana Kearney	775 Concourse Village East #3C Bronx, N.Y. 10451	16
Shanicaqua Spruell	1105 Tinton Avenue #49 Bronx, N.Y. 10451	16
Deniece Turner	779 Concourse Village East #7D Bronx, N.Y. 10451	16

Ana Brito	858 East 175th Street #1 Bronx, N.Y. 10456	17
Aida Cruel	747 St. Ann's Avenue #D Bronx, N.Y. 10456	17
Laura M. Yangas	744 East Tremont Avenue #4 Bronx, N.Y. 10457	17
Carolyn D. Parker	920 Metcalf Avenue #40 Bronx, N.Y. 10473	18
Lorraine A. Toto	14-07 116th Street Queens, N.Y. 11356	19
Athena Kiamos	67-21 Springfield Blvd Queens, N.Y. 11364	23
Michael T. Pariaug	166-05 Highland Avenue #2G Jamaica, N.Y. 11432	24
Kunta Rawat	87-46 Chelsea Street #2E Jamaica, N.Y. 11432	24
Damaris Saunders	147-44 Village Road #87B Queens, N.Y. 11435	24
Tina Brewer	106-22 215th Street Queens Village, N.Y. 11429	27
Vincent Raccugila	63-00 Wetherole Street Rego Park, N.Y. 11374	29
Lorraine Cruz	100-20 89th Avenue Queens, N.Y. 11418	32
Leticia Gonzalez	161-31 87th Street Howard Beach, N.Y. 11414	32
Russell Pecunies	151 Beach 96th Street #6C Rockaway Beach, N.Y. 11693	32
Kristi Porth	135-29 96th Street Ozone Park, N.Y. 11417	32
Lisa A. Ennis	215 Adams Street #16H Brooklyn, N.Y. 11201	33
Sian Lawrence	410 Saint Marks Avenue #4B Brooklyn, N.Y. 11238	35

Rhonda Livingston	521 St. Marks Avenue #2E Brooklyn, N.Y. 11238	35
Joyce Washington	212 South Oxford Street #4I Brooklyn, N.Y. 11217	35
Michelle Charles	1442 Pacific Street #1R Brooklyn, N.Y. 11216	36
Joy A. Barbagallo	1211 65th Street #C Brooklyn, N.Y. 11219	38
Marguerite Connelly	60 Sackett Street Brooklyn, N.Y. 11231	39
Vivolyn Ford	131 Lincoln Road #6A Brooklyn, N.Y. 11225	40
James Lewis, Jr.	177 Lenox Road #C2 Brooklyn, N.Y. 11226	40
Betty L. Fergerson	2204 Dean Street Brooklyn, N.Y. 11233	41
Tara Chester	443 Amber Street #3 Brooklyn, N.Y. 11208	42
Jennifer Headley	617 Hinsdale Street Brooklyn, N.Y. 11207	42
Nicholas D. Lucas	1180 East 83rd Street Brooklyn, N.Y. 11236	46
Stephanie Applewhite	90A Wolkoff Lane Staten Island, N.Y. 10303	49
Jake Elias	131 McKinley Avenue Staten Island, N.Y. 10306	50
Holly Frascona	39 Furness Place Staten Island, N.Y. 10314	50
Elena Suazo	30 Grissom Avenue Staten Island, N.Y. 10314	50
Tara Braccia	166 Spratt Avenue Staten Island, N.Y. 10306	51
Gail E. Brennan	300 Mosely Avenue Staten Island, N.Y. 10312	51
Gina N. Diaz	1152 Arden Avenue Staten Island, N.Y. 10312	51

Melanie J. Gallego	39 Lorrain Avenue Staten Island, N.Y. 10312	51
Alan D. Tognan	138 William Avenue Staten Island, N.Y. 10308	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 54-A -** The use of alternative fuels and alternative fuel technologies.
- (2) **Int 182-D -** Officers to identify themselves to the public.
- (3) **Int 385-C -** Indoor asthma allergen hazards in residential dwellings and pest management.
- (4) **Int. 541-C -** Guidance for its officers on obtaining consent to search individuals.
- (5) **Int 572-A -** Department of homeless services to post shelter census data.
- (6) **Int 717-A -** Civil penalties for idling infractions and enforcement.
- (7) **Int 804-A -** Entities to engage in a cooperative dialogue.
- (8) **Int 855-B -** Study regarding the feasibility of notifying individuals who may be eligible for public assistance.
- (9) **Int 880-A -** The use of biodiesel fuel in school buses
- (10) **Int 978-D -** Mold assessment, mold abatement and mold remediation for certain buildings.
- (11) **Int 1009-A -** Online portfolio report of registered property owners.
- (12) **Int 1012-A -** Clarify and strengthen the human rights law.
- (13) **Int 1015-A -** Establishing a housing portal.
- (14) **Int 1036-A -** Census of vacant properties.
- (15) **Int 1039-A -** City-owned vacant property that may be suitable for the development of affordable housing.

- (16) **Int 1120-A -** Notification of proposed soil or foundation work.
- (17) **Int 1185-A -** Information to users of life-sustaining equipment.
- (18) **Int 1269-A -** Creation of regulatory agreements with community land trusts.
- (19) **Int 1397-A -** Restoration requirements after the opening of a protected street.
- (20) **Int 1399-A -** Protecting employees who seek temporary changes to work schedules.
- (21) **Int 1419-A -** Penalties for construction site safety violations.
- (22) **Int 1465-A -** Phasing out the use of residual fuel oil and fuel oil grade no. 4 in boilers in in-city power plants.
- (23) **Int 1466 -** Cleaning park playground equipment.
- (24) **Int 1486-A -** Report information on school applications, offers of admission, enrollment and school seats available.
- (25) **Int 1497-A -** Department of education to report on students in temporary housing.
- (26) **Int 1499-A -** Study the feasibility of a penalty mitigation program.
- (27) **Int 1577-A -** A study regarding client information management systems.
- (28) **Int 1604-A -** Collection of gender pronoun information.
- (29) **Int 1615-A -** Creation of a subcontractor resource guide.

- (30) **Int 1616-A -** Temporary task force on post-incarceration reentry for older adults.
- (31) **Int 1619-A -** Runaway youth and homeless youth who have not accessed shelter services.
- (32) **Int 1629-A -** Periodic recommendations on adoption of more stringent energy efficiency requirements.
- (33) **Int 1632-A -** Energy efficiency scores and grades.
- (34) **Int 1653-B -** Responses to noise complaints.
- (35) **Int 1658-A -** Installation of bollards.
- (36) **Int 1705-A -** Runaway and homeless youth entering department of homeless services shelters.
- (37) **Int 1714-A -** Educational continuity.
- (38) **Int 1739-A -** Domestic violence emergency shelters.
- (39) **Res 1780 -** Organizations to receive funding in the Expense Budget (**Transparency Resolution**).
- (40) **L.U. 512 & Res 1786 -** App. **20175110 HHQ** Queens, Community Board 8, Council District 24.
- (41) **L.U. 797 & Res 1787 -** App. **20185070 HAQ** Queens, Community District 12, Council District 27 (**Coupled to be Filed pursuant to a Letter of Withdrawal**).
- (42) **L.U. 800 & Res 1792 -** App. **C 170392 ZMX** Bronx, Community Board 9, Council District 18.
- (43) **L.U. 801 & Res 1793 -** App. **N 170393 ZRX** Bronx, Community Board 9, Council District 18.

- (44) **L.U. 802 & Res 1794 -** App. **C 170445 ZMX** Bronx, Community Board 11, Council District 13.
- (45) **L.U. 803 & Res 1795 -** App. **N 170446 ZRX** Bronx, Community Board 11, Council District 13.
- (46) **L.U. 804 & Res 1796 -** App. **C 170447 ZSX** Bronx, Community Board 11, Council District 13.
- (47) **L.U. 805 & Res 1797 -** App. **N 170442 ZMM** Manhattan, Community Board 11, Council District 9.
- (48) **L.U. 806 & Res 1798 -** App. **N 170443 ZRM** Manhattan, Community Board 11, Council District 9.
- (49) **L.U. 807 & Res 1799 -** App. **C 170444 ZSM** Manhattan, Community Board 11, Council District 9.
- (50) **L.U. 816 & Res 1788 -** App. **20185102 HAM** Manhattan, Community District 3, Council District 2.
- (51) **L.U. 817 & Res 1800 -** App. **N 170425 (A) ZRY**, a special permit for self-service storage facilities and to establish APPENDIX J (Designated Areas in Manufacturing Districts).
- (52) **L.U. 828 & Res 1768 -** App. **20185128 HAX** Bronx, Community District 9, Council District 18.
- (53) **L.U. 829 & Res 1769 -** App. **20185129 HAX** Bronx, Community District 9, Council District 18.
- (54) **L.U. 831 & Res 1789 -** App. **N 180133 HKM** Manhattan, Community District 2, Council District 3.
- (55) **L.U. 832 & Res 1790 -** App. **20185132 HAM** Manhattan, Community District 3, Council District 2.

- (56) **L.U. 833 & Res 1791 -** App. **20185127 HAK** Brooklyn, Community District 16, Council District 37.
- (57) **L.U. 834 & Res 1785 -** Banana Kelly, Block 2711, Lots 13, 14 and 16; Bronx, Community District No. 2, Council District No. 17.
- (58) **Resolution approving various persons Commissioners of Deeds.**

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

Affirmative – Adams, Barron, Borelli, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, Matteo, 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. 182-D**:

Affirmative – Cohen, Constantinides, Crowley, Cumbo, Dromm, Espinal, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Johnson, Kallos, Koo, Koslowitz, Lancman, Levin, Levine, Palma, Reynoso, Rodriguez, Rosenthal, Salamanca, Torres, Treyger, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **27**.

Negative – Adams, Barron, Borelli, Cabrera, Cornegy, Deutsch, Grodenchik, Lander, Maisel, Mealy, Menchaca, Mendez, Perkins, Richards, Rose, Ulrich, Vacca, Vallone, Williams, and Matteo - **20**.

Abstention – Chin, Eugene, and King – **3**.

The following was the vote recorded for **Int. No. 385-C**:

Affirmative – Adams, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Vacca, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **47**.

Negative – Borelli, Ulrich, and Matteo – **3**.

The following was the vote recorded for **Int. No. 541-C**:

Affirmative – Adams, Barron, Chin, Constantinides, Cornegy, Crowley, Cumbo, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Johnson, Kallos, King, Koslowitz, Lancman, Lander, Levin, Levine, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **38**.

Negative – Borelli, Cabrera, Cohen, Deutsch, Greenfield, Grodenchik, Koo, Maisel, Ulrich, Vacca, Vallone, and Matteo – **12**.

The following was the vote recorded for **Int. No. 717-A**:

Affirmative – Adams, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **47**.

Negative – Borelli, Vacca, and Matteo - **3**.

The following was the vote recorded for **Int. Nos. 804-A and 1012-A**:

Affirmative – Adams, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **48**.

Negative –Borelli and Matteo – **2**.

The following was the vote recorded for **Int. Nos. 1015-A, 1039-A, 1269-A**:

Affirmative – Adams, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **48**.

Negative –Borelli and Matteo – **2**.

The following was the vote recorded for **Int. No. 1399-A**:

Affirmative – Adams, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Vacca, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **47**.

Negative – Borelli, Ulrich, and Matteo – **3**.

The following was the vote recorded for **Int. No. 1419-A**:

Affirmative – Adams, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **47**.

Negative – Borelli, Lancman, and Matteo – **3**.

The following was the vote recorded for **Int. Nos. 1465-A and 1629-A**:

Affirmative – Adams, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **48**.

Negative – Borelli and Matteo – **2**.

The following was the vote recorded for **Int. No. 1604-A**:

Affirmative – Adams, Barron, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **46**.

Negative – Borelli, Deutsch, and Matteo – **3**.

Abstention – King – **1**.

The following was the vote recorded for **L.U. No. 512 & Res. No. 1786:**

Affirmative – Adams, Borelli, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, Matteo, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **49**.

Negative – Barron – **1**.

The following was the vote recorded for **L.U. No. 802 & Res. No. 1794; L.U. No. 803 & Res. No. 1795; and L.U. No. 804 & Res. No. 1796:**

Affirmative – Adams, Barron, Borelli, Cabrera, Chin, Cohen, Constantinides, Cornegy, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Matteo, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **49**.

Abstention – Williams – **1**.

The following was the vote recorded for **L.U. No. 817 & Res. No. 1800:**

Affirmative – Adams, Barron, Cabrera, Chin, Cohen, Constantinides, Crowley, Cumbo, Deutsch, Dromm, Espinal, Eugene, Ferreras-Copeland, Garodnick, Gentile, Gibson, Greenfield, Grodenchik, Johnson, Kallos, King, Koo, Koslowitz, Lancman, Lander, Levin, Levine, Maisel, Mealy, Menchaca, Mendez, Palma, Perkins, Reynoso, Richards, Rodriguez, Rose, Rosenthal, Salamanca, Torres, Treyger, Ulrich, Vacca, Vallone, Williams, Van Bramer, and the Speaker (Council Member Mark-Viverito) – **47**.

Negative – Borelli, Cornegy, and Matteo - **3**.

The following 38 Introductions were sent to the Mayor for his consideration and approval: Int. Nos. 54-A, 182-D, 385-C, 541-C, 572-A, 717-A, 804-A, 855-B, 978-D, 880-A, 1009-A, 1012-A, 1015-A, 1036-A, 1039-A, 1185-A, 1120-A, 1269-A, 1397-A, 1399-A, 1419-A, 1465-A, 1466, 1486-A, 1497-A, 1499-A, 1577-A, 1604-A, 1615-A, 1616-A, 1619-A, 1629-A, 1632-A, 1633-B, 1658-A, 1705-A, 1714-A, and 1739-A.

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 item Res. No. 792-A

Report of the Committee on Cultural Affairs, Libraries and International Intergroup Relations in favor of approving a Resolution establishing January 30 annually as Fred T. Korematsu Day of Civil Liberties and the Constitution.

The Committee on Cultural Affairs, Libraries and International Intergroup Relations to which the annexed amended resolution was referred on July 23, 2015 (Minutes, page 2951), respectfully

REPORTS:

Introduction

On Monday, December 18, 2017, the Committee on Cultural Affairs, Libraries and International Intergroup Relations, chaired by Council Member Jimmy Van Bramer, will hold a hearing to consider Proposed. Res. 792-A, sponsored by Council Member Daniel Dromm, a resolution establishing January 30 annually as Fred T. Korematsu Day of Civil Liberties and the Constitution. On October 25, 2017, the Committee on Cultural Affairs, Libraries and International Intergroup Relations held a hearing on this resolution. Witnesses invited to testify included the Department of Cultural Affairs (DCLA); members of the Cultural Institutions Group (CIG);¹ various arts and cultural advocates, groups, institutions and organization; and other interested parties.

Background

Fred T. Korematsu was a civil rights activist who fought against the internment of Japanese Americans in the United States (U.S.) during World War II.² After the bombing of Pearl Harbor in Hawaii by Japan on December 7, 1941, President Franklin Roosevelt signed Executive Order 9066, which authorized the U.S. military to remove approximately 120,000 American citizens of Japanese descent to live in prison camps throughout the U.S.³ Korematsu, the son of Japanese immigrants, refused to go into an internment camp and was thereafter arrested and convicted of breaking military law.⁴

Koremsu appealed his case all the way up to the U.S. Supreme Court.⁵ In 1944, the Supreme Court ruled against him, arguing that his incarceration was justified due to “military necessity.”⁶ In 1981, a researcher discovered documents which demonstrated that the U.S. government had presented false information to the Supreme Court in Korematsu’s case and suppressed information about the loyalty of Japanese Americans to

¹ The CIG is comprised of 33 member institutions that exist in a public-private partnership with the city. The CIG includes art and natural history museums, historical societies, theaters, concert halls, performing art centers, botanical gardens and zoos. Member institutions operate as nonprofit organizations whose mandate is to provide cultural services to all New Yorkers. *See* <http://www.nyc.gov/html/dcla/html/funding/institutions.shtml>.

² The Korematsu Institute, “Fred T. Korematsu Lifetime,” available at <http://www.korematsuinstitute.org/fred-t-korematsu-lifetime/>, accessed on October 19, 2017.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

the country.⁷ With the new evidence, Korematsu's case was reopened and in 1983, a federal judge overturned his conviction.⁸

For the rest of his life, Korematsu remained an activist. In 1998, President Bill Clinton awarded him the Presidential Medal of Freedom.⁹ In the wake of September 11, Korematsu spoke out against the dangers of racial profiling of Muslims and urged U.S. leaders not to repeat the wrongs inflicted on Japanese Americans.¹⁰ In 2010, the State of California declared his birthday, January 30, as the Fred Korematsu Day of Civil Liberties and the Constitution.¹¹

Proposed Res. No. 792-A

Proposed Res. No. 792-A would note that Fred T. Korematsu was born on January 30, 1919 in Oakland, California, a child of Japanese immigrants.

Proposed Res. No. 792-A would acknowledge that in February 1942, shortly after Japan attacked Pearl Harbor, President Franklin D. Roosevelt issued Executive Order 9066, authorizing the Secretary of War to exclude any or all residents from certain geographic areas and authorizing federal authorities to provide transportation, shelter and other accommodations for excluded or displaced residents. Proposed Res. No. 792-A would also acknowledge that with that authority, the U.S. Army issued orders excluding more than 100,000 people of Japanese descent, including many U.S. citizens, from areas on the West Coast and requiring them to report to internment camps. Res. No. 792 would further acknowledge that those orders included Exclusion Order 34, which as of May 1942 barred "all persons of Japanese ancestry, both alien and non-alien" from an area near San Francisco Bay and which required Japanese Americans to report to a Civilian Control Center from which they were sent to detention centers and internment camps.

Proposed Res. No. 792-A would note that Korematsu, a resident of that exclusion zone refused to report and was convicted of violating Exclusion Order 34, sentenced to five years of probation, and ultimately sent to an internment camp in Utah. Proposed Res. No. 792-A would also note that Korematsu challenged the constitutionality of his conviction all the way to the U.S. Supreme Court, which upheld the exclusion order as a wartime measure and affirmed his conviction.

Proposed Res. No. 792-A would indicate that in the early 1980s, the federal Commission on Wartime Relocation and Internment of Civilians concluded that Executive Order 9066 "was not justified by military necessity, and the decisions which followed from it-detention, ending detention and ending exclusion-were not driven by analysis of military conditions" but instead by "race prejudice, war hysteria and a failure of political leadership," and that "[a] grave injustice was done to American citizens and resident aliens of Japanese ancestry." Proposed Res. No. 792-A would also indicate that in April 1984, a federal district court in California vacated Korematsu's conviction, finding "substantial" evidence that the government had "deliberately omitted relevant information and provided misleading information" to the court in prosecuting and convicting Korematsu.

Proposed Res. No. 792-A would acknowledge that Korematsu remained an activist throughout his life, fighting for reparations for those who had been interned during World War II and speaking out after September 11, 2001 against discrimination, violence and detention based on race, religion and ethnicity. Proposed Res. No. 792-A would also acknowledge that in 1998, President Bill Clinton awarded Korematsu the Medal of Freedom, the country's highest civilian honor.

Proposed Res. No. 792-A would indicate that exclusion orders subjected New York City residents of Japanese descent, including American Citizens, to house arrest, imprisonment on Ellis Island, relocation to distant parts of the U.S., and/or deportation from the U.S. Proposed Res. No. 792-A would acknowledge that

⁷ The Smithsonian Magazine, "Fred Korematsu Fought Against Japanese Internment in the Supreme Court ... and Lost," available at <https://www.smithsonianmag.com/history/fred-korematsu-fought-against-japanese-internment-supreme-court-and-lost-180961967/>, accessed on October 19, 2017.

⁸ Id.

⁹ Id.

¹⁰ Al Jazeera, "Fred Korematsu: Why His Story Still Matters Today," available at <http://www.aljazeera.com/indepth/features/2017/01/fred-korematsu-story-matters-today-170130133315836.html>, accessed on October 20, 2017.

¹¹ The Korematsu Institute, "Fred Korematsu Day," available at <http://www.korematsuinstitute.org/fredkorematuday/>, accessed on October 20, 2017.

many other internment-camp survivors eventually settled in New York – more than 1,100 out of roughly 30,000 people who relocated from the camps before January 1, 1945 and whose movements could later be traced came to New York State – and these survivors contributed to the development of the Japanese American community in New York City.

Proposed Res. No. 792-A would also acknowledge that Korematsu's courage in fighting for justice and civil liberties furthered the cause of equality for Asian Americans and made him an inspiration to those in New York City and across the country. Finally, Proposed Res. No. 792-A would establish January 30 annually as Fred T. Korematsu Day of Civil Liberties and the Constitution.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Res. No. 792-A:)

Res. No. 792-A

Resolution establishing January 30 annually as Fred T. Korematsu Day of Civil Liberties and the Constitution.

By Council Members Dromm, Chin, Koo, Ferreras-Copeland, Johnson, Koslowitz, Kallos, Treyger, Richards, Salamanca, Gentile, King, Constantinides, Garodnick, Levin, Espinal, Grodenchik, Rosenthal, Mendez, Deutsch, Lander, Menchaca, Palma, Vacca, Levine, Rose, Reynoso, Torres, Rodriguez, Cornegy, Miller, Lancman, Perkins, Ulrich and Borelli.

Whereas, Fred T. Korematsu was born on January 30, 1919 in Oakland, California, a child of Japanese immigrants; and

Whereas, In February 1942, shortly after Japan attacked Pearl Harbor, President Franklin D. Roosevelt issued Executive Order 9066, authorizing the Secretary of War to exclude any or all residents from certain geographic areas and authorizing federal authorities to provide transportation, shelter and other accommodations for excluded or displaced residents; and

Whereas, With that authority, the U.S. Army issued orders excluding more than 100,000 people of Japanese descent, including many U.S. citizens, from areas on the West Coast and requiring them to report to internment camps; and

Whereas, Those orders included Exclusion Order 34, which as of May 1942 barred “all persons of Japanese ancestry, both alien and non-alien” from an area near San Francisco Bay and which required Japanese Americans to report to a Civilian Control Center from which they were sent to detention centers and internment camps; and

Whereas, Korematsu, a resident of that exclusion zone refused to report and was convicted of violating Exclusion Order 34, sentenced to five years of probation, and ultimately sent to an internment camp in Utah; and

Whereas, Korematsu challenged the constitutionality of his conviction all the way to the U.S. Supreme Court, which upheld the exclusion order as a wartime measure and affirmed his conviction; and

Whereas, In the early 1980s, the federal Commission on Wartime Relocation and Internment of Civilians concluded that Executive Order 9066 “was not justified by military necessity, and the decisions which followed from it—detention, ending detention and ending exclusion—were not driven by analysis of military conditions” but instead by “race prejudice, war hysteria and a failure of political leadership,” and that “[a] grave injustice was done to American citizens and resident aliens of Japanese ancestry”; and

Whereas, In April 1984, a federal district court in California vacated Korematsu’s conviction, finding “substantial” evidence that the government had “deliberately omitted relevant information and provided misleading information” to the court in prosecuting and convicting Korematsu; and

Whereas, Korematsu remained an activist throughout his life, fighting for reparations for those who had been interned during World War II and speaking out after September 11, 2001 against discrimination, violence and detention based on race, religion and ethnicity; and

Whereas, In 1998, President Bill Clinton awarded Korematsu the Medal of Freedom, the country’s highest civilian honor; and

Whereas, Exclusion orders subjected New York City residents of Japanese descent, including American Citizens, to house arrest, imprisonment on Ellis Island, relocation to distant parts of the U.S., and/or deportation from the U.S.; and

Whereas, Many other internment-camp survivors eventually settled in New York—more than 1,100 out of roughly 30,000 people who relocated from the camps before January 1, 1945 and whose movements could later be traced came to New York State—and these survivors contributed to the development of the Japanese American community in New York City; and

Whereas, Korematsu’s courage in fighting for justice and civil liberties furthered the cause of equality for Asian Americans and made him an inspiration to those in New York City and across the country; now, therefore, be it

Resolved, That the Council of the City of New York establishes January 30 annually as Fred T. Korematsu Day of Civil Liberties and the Constitution.

JAMES G. VAN BRAMER, *Chairperson*; ELIZABETH S. CROWLEY, PETER A. KOO, ANDY L. KING, COSTA G. CONSTANTINIDES, LAURIE A. CUMBO, HELEN K. ROSENTHAL. Committee on Cultural Affairs, Libraries and International Intergroup Relations, December 18, 2017.

Pursuant to Rule 8.50 of the Council, the Public Advocate (Ms. James) called for a voice-vote. Hearing no objections, the Public Advocate (Ms. James) declared the Resolution to be adopted.

Adopted unanimously by the Council by voice-vote.

Report for voice-vote item Res. No. 1484-A

Report of the Committee on Immigration in favor of approving, as amended, a Resolution denouncing the termination of the DACA program and calling on the state and federal government to extend protections for undocumented youth by passing the New York State DREAM Act of 2017, as well as the federal DREAM Act of 2017.

The Committee on Immigration, to which the annexed amended resolution was referred on May 24, 2017 (Minutes, page 1621), respectfully

REPORTS:

I. INTRODUCTION

On June 19, 2017, the Committee on Immigration, chaired by Council Member Carlos Menchaca, held an oversight hearing entitled, “Supporting New York City’s DREAMers and “DACA-mented” Youth.” The Committee also heard Res. No. 1484, a resolution calling upon on the state and federal government to extend protections for undocumented youth by passing the New York State DREAM Act of 2017 at the state level, as well as the DREAM Act of 2017 at the federal level. At that hearing, the Committee heard testimony from the Mayor’s Office of Immigrant Affairs (MOIA), community-based organizations, student groups, and other interested members of the public.

On December 18, 2017, the Committee voted in favor of Proposed Res. No. 1484-A by a vote of five to zero. The Council is set to vote on the resolution at the December 19, 2017 Stated Meeting.

II. BACKGROUND

Children account for approximately 1 million, of the 11.2 million undocumented immigrants living in the United States (U.S.) today.¹ Typically, these children were not in control of the decision made by parents or other family members to emigrate or remain in the U.S. unlawfully. These children, as well as young adults brought to the U.S. under such circumstances, are commonly referred to as “DREAMers,” a term derived from legislation first introduced in Congress in 2001 titled, the Development Relief, and Education for Alien Minors Act (DREAM Act).² Without a direct path to lawful immigration status, DREAMers are forced to live in the shadows of American society and are inhibited from advancing their educational, financial and other goals.

¹ <http://www.pewhispanic.org/2011/12/01/ unauthorized-immigrants-length-of-residency-patterns-of-parenthood/>

² <https://studentaid.ed.gov/sites/default/files/financial-aid-and-undocumented-students.pdf>

Undocumented students are among the most vulnerable groups in U.S. schools.³ Despite the significant challenges that both students and schools face, roughly 65,000 DREAMers graduate from U.S. high schools each year, thousands of them from schools in New York State. Unfortunately, these students face tremendous social, financial, and legal barriers to accessing higher education.⁴ Although New York State school districts educate and prepare many of these undocumented students for college and careers, barriers in federal immigration law and access to financial aid prevent many students from reaching their full potential.⁵

In 2010, the Migration Policy Institute estimated that 146,000 youth educated in New York State public schools were ineligible to receive financial aid under federal and state law.⁶ Of the more than 4,500⁷ undocumented students who graduate from New York State high schools every year, only 5-10% pursue a college degree due to the tremendous financial obstacles they face when financing their studies.⁸ Most private scholarship funds and foundations require applicants to be U.S. citizens or legal residents, undocumented students are left with few options post graduation, ineligible to receive federal tuition assistance, scholarships, grants or loans.⁹ As new jobs increasingly demand advanced skills, it has never been more critical to gain access to higher education or technical training.

III. HISTORY AND POSTSECONDARY EDUCATION

The guidelines that govern the postsecondary enrollment of undocumented students are a patchwork of court cases, federal laws and state policies.¹⁰ Congress first introduced federal financial aid for disadvantaged college-bound students in 1965 with the passage of the Higher Education Act (HEA).¹¹ Title IV of the HEA requires that applicants for federal financial aid,¹² including Pell Grants, and the Federal Work-Study Program,¹³ be legal U.S. residents.¹⁴ Thus, Title IV of the HEA prohibits undocumented students from receiving federal financial aid for postsecondary education.¹⁵

The 1982 Supreme Court's landmark decision in Plyler v. Doe held that states cannot constitutionally deny students a free public education on account of their immigration status, or the immigration status of their parents or guardians.¹⁶ The Court ruled that the Texas law was unconstitutional because the Fourteenth Amendment's Equal Protection Clause does not only apply to U.S. citizens but applies to any person, therefore

³ <https://www2.ed.gov/about/overview/focus/supporting-undocumented-youth.pdf>

⁴ <https://www.americanimmigrationcouncil.org/research/dream-act>

⁵ <https://www.osc.state.ny.us/osdc/rpt1-2014.pdf>

⁶ <http://www.migrationpolicy.org/pubs/DREAM-Insight-July2010.pdf>

⁷ The estimate of 4,500 undocumented high school graduates per year is created by taking the share of all undocumented youth estimated to live in NYS State (7%) times the number of undocumented youth estimated to graduate from a US high school every year (65,000).

<https://www.osc.state.ny.us/osdc/rpt1-2014.pdf>

⁸ http://www.immigrationpolicy.org/sites/default/files/docs/Dream_Act_updated_051811.pdf

⁹ <https://www.osc.state.ny.us/osdc/rpt1-2014.pdf>

¹⁰ <https://depts.washington.edu/esreview/wordpress/wp-content/uploads/2012/12/ESR-2011-Research-Funding-Postsecondary-Education-for-Undocumented-Students.pdf>

¹¹ Title IV of the Higher Education Act of 1965, 20 U.S.C. §1002 (1965).

¹² Financial need is determined by the U.S. Department of Education using a standard formula, established by Congress, to evaluate the financial information reported on the Free Application for Federal Student Aid (FAFSA) and to determine the family EFC. The fundamental elements in this standard formula are the student's income (and assets if the student is independent), the parents' income and assets (if the student is dependent), the family's household size, and the number of family members (excluding parents) attending postsecondary institutions. The EFC is the sum of: (1) a percentage of net income (remaining income after subtracting allowances for basic living expenses and taxes) and (2) a percentage of net assets (assets remaining after subtracting an asset protection allowance). Different assessment rates and allowances are used for dependent students, independent students without dependents, and independent students with dependents. After filing a FAFSA, the student receives a Student Aid Report (SAR), or the institution receives an Institutional Student Information Record (ISIR), which notifies the student if he or she is eligible for a Federal Pell Grant and provides the student's EFC. <http://www2.ed.gov/programs/fpg/index.html>

¹³ The Federal Work-Study (FWS) Program provides funds for part-time employment to help needy students to finance the costs of postsecondary education. Students can receive FWS at approximately 3,400 participating postsecondary institutions. Hourly wages must not be less than the federal minimum wage. <http://www2.ed.gov/programs/fws/index.html>

¹⁴ 20 U.S.C. §1002

¹⁵ <https://cdn.americanprogress.org/wp-content/uploads/2014/12/UndocHigherEd-report2.pdf>

¹⁶ In Summary, the U.S. Supreme Court found that if the State is to deny a discrete group of innocent children the free public education that it offers to other children residing within its borders, that denial must be justified by a showing that it furthers some substantial state interest. The Supreme Court found that financial concerns did not constitute a compelling interest. Plyler v. Doe, 457 U.S. 202 (1982).

state governments cannot pass laws that apply to only one class of individuals. Although the ruling established a precedent for undocumented children in K-12 public schooling, it did not extend postsecondary opportunities for undocumented immigrants. Instead of a uniform policy providing equal access to postsecondary education, undocumented students must navigate a complex labyrinth of federal, state and postsecondary institutional policies.¹⁷

In 1996, Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), prohibiting states from granting undocumented immigrants certain postsecondary educational benefits on the basis of state residence unless equal benefits are made available to all U.S. citizens.¹⁸ The statute states that an individual who is not lawfully present in the U.S. shall not be eligible on the basis of residence within a state for any postsecondary education benefit unless a citizen or national of the U.S. is eligible for such a benefit (in no less amount, duration, and scope) without regard to whether the citizen or national is such a resident.¹⁹ Thus, if an institution of higher education grants undocumented students in-state tuition, it must also offer the same tuition rate to all U.S. citizens, regardless of whether they live in or out of that specific state.²⁰

IV. STATE-LEVEL ADVANCES

In 2001, New York State showed leadership by allowing all students who attend a New York State high school for a specified period and either graduate or obtain a GED to pay in-state tuition rates at the City University of New York (CUNY) and the State University of New York (SUNY).²¹ New York State holds that requirements to receive in-state tuition are based on high school attendance and graduation, not state residency.²² The Office of the State Comptroller estimated that 8,300 undocumented undergraduate students were enrolled in public institutions of higher education in New York State in the Fall 2012 semester, with the majority enrolled at CUNY – 6,546 students in total. Despite the opportunity to pay in-state tuition, many undocumented students are unable to attend college full-time, or complete their degree program, simply because the cost of tuition is beyond their means.²³

V. FEDERAL-LEVEL ADVANCES

On June 15, 2012, President Barack Obama issued an executive order creating the Deferred Action for Childhood Arrivals (DACA) program, and directed the U.S. Department of Homeland Security (DHS) to refrain from prioritizing certain young undocumented people for deportation.²⁴ DACA provides for a deferral of deportation action for certain youth who entered the U.S. prior to age 16, resided continuously in the U.S. since June 15, 2007 or before, and who are either in school, obtained a U.S. high school diploma or General Education Development certificate (GED), or have been honorably discharged from the U.S. Coast Guard or Armed Forces, and were under 31 years of age on June 15, 2012²⁵, and have not been convicted of a felony or a significant misdemeanor, to be eligible for a two year deferral of deportation and work authorization.²⁶ Notably, the deferral and work permits may be renewed as long as the program remains in effect and the individual does not have significant involvement with the criminal justice system.

Since implementation in August 2012, the DACA program has given a large number of undocumented immigrant youth a two-year reprieve from deportation and work permits.²⁷ Nevertheless, DACA recipients are

¹⁷ <http://cdn.americanprogress.org/wp-content/uploads/2014/12/UndocHigherEd-report2.pdf>

¹⁷ <http://www.immigrationpolicy.org/just-facts/public-education-immigrant-students-states-challenge-supreme-court%E2%80%99s-decision-plyler-v-do>

¹⁸ Illegal Immigration Reform and Immigrant Responsibility Act, 8 U.S.C. § 1623 (1996).

¹⁹ Illegal Immigration Reform and Immigrant Responsibility Act, 8 U.S.C. § 1623 (1996).

²⁰ Illegal Immigration Reform and Immigrant Responsibility Act, 8 U.S.C. § 1623 (1996).

²¹ <http://www.ncsl.org/research/immigration/tuition-benefits-for-immigrants.aspx>

²² <http://www.ncsl.org/research/education/undocumented-student-tuition-overview.aspx>

²³ <https://www.osc.state.ny.us/osdc/rpt1-2014.pdf>

²⁴ www.dhs.gov/deferred-action-childhood-arrivals

²⁵ U.S. Citizenship and Immigration Services Website, available at: <http://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-daca>

²⁶ www.dhs.gov/deferred-action-childhood-arrivals

²⁷ <https://unitedwedream.org/wp-content/uploads/2015/10/DACA-report-final-1.pdf>

not eligible for federal financial aid and many DACA eligible youth did not to apply for the program. One reason is the program's application fee, which is too expensive for many individuals and families, especially families with multiple DACA eligible members.²⁸ Additionally, many DACA eligible youth fear they will not be approved due to prior contact with the criminal justice system, even if such contact does not automatically disqualify them for DACA. More than losing the money for the application fee, these individuals fear that a denial would place them at higher risk of deportation. For others, the education requirement presents a significant roadblock, especially for DACA eligible young adults who have aged out of conventional high school programs and do not have the time to obtain a GED because they work full time.²⁹ It is also worth noting that many DREAMers did not qualify for DACA simply based on the arbitrary age and continuous presence requirements.

Throughout his presidential campaign, President Donald J. Trump repeatedly pledged to terminate the DACA program stoking fear among the roughly 750,000 individuals granted DACA.³⁰ Data from the first months of President Trump's term seemed to indicate that President Trump would make good on his promise, showing a 25% increase in DREAMers targeted for deportation compared with the same time last year, including at least a dozen DACA grantees³¹. Two recent incidents include:

- On February 17, 2017, federal agents deported 23-year-old DREAMer, Juan Manuel Montes. Juan was approached by a U.S. Customs and Border Protection (CBP) officer while waiting to be picked up by a friend. Juan was unable to produce his ID or proof of DACA status because he had forgotten his wallet and was not permitted to retrieve it by the CBP officer. Juan was deported to Mexico within three hours of being stopped, becoming the first undocumented immigrant with active DACA status deported by the Trump administration's stepped-up deportation policies.
- On March 1st, 2017, Immigration and Customs Enforcement (ICE) officials detained DREAMer Daniela Vargas in Jackson, Mississippi, shortly after she spoke at a press conference in front of city hall about her fears of being deported and her dream to stay in the U.S., where she has lived since migrating from Argentina with her parents when she was 7. As Daniela and a friend drove away from the event, ICE officials stopped the car and detained Daniella. Before her detention, Vargas planned to move out of state with her mother and pursue her dream of becoming a university math professor.

On June 15, 2017, the DHS issued guidance stating that DACA grantees "will continue to be eligible" for renewal, adding that no work permits will be terminated prior to their current expiration dates."³² While this guidance provides temporary comfort to DACA grantees, there is no assurance that the program will be continued long-term. Further, DREAMers without DACA remain vulnerable to deportation.

VI. PENDING LEGISLATION AT THE STATE AND FEDERAL LEVEL

The New York State DREAM Act

At the state level, New York State Assembly Member Francisco Moya introduced the New York State DREAM Act ("NYS DREAM Act) on January 31, 2017. The bill would increase access to various forms of financial assistance, including the Tuition Assistance Program, Higher Education Opportunity Program, Collegiate Science and Technology Entry Program, Educational Opportunity Program and similar programs for eligible immigrant students and the children of undocumented immigrants.

²⁸ https://www.washingtonpost.com/politics/obamas-2012-daca-move-offers-a-window-into-pros-and-cons-of-executive-action/2014/11/30/88be7a36-7188-11e4-893f-86bd390a3340_story.html?utm_term=.4b1070f16571

²⁹ <https://unitedwedream.org/wp-content/uploads/2015/10/DACA-report-final-1.pdf>

³⁰ <https://www.theatlantic.com/politics/archive/2017/06/trump-dreamers-campaign-pledge/530598/>

³¹ http://www.slate.com/blogs/the_slatest/2017/04/18/dreamer_deported_in_matter_of_hours_despite_trump_s_promise_of_protection.html

³² <https://www.theatlantic.com/politics/archive/2017/06/trump-dreamers-campaign-pledge/530598/>

Under the proposal, undocumented students would be eligible for general financial aid awards, performance based awards, or New York State's Tuition Assistance Program (TAP) if they:

- attended an approved New York State high school for two or more years, graduated from an approved New York State high school and applied for attendance to a New York State college or university within 5 years of receiving their New York State high school diploma; or
- attended an approved New York State program for a state high school equivalency diploma, received their state high school equivalency diploma and applied for attendance to a New York State college or university within five years of receiving their state high school equivalency diploma; or
- are otherwise eligible for in-state tuition at SUNY, CUNY or community colleges as prescribed by their admission criteria.³³

The NYS DREAM Act would further eliminate barriers for immigrant families to save for higher education expenses by allowing them to open a New York State 529 family tuition account under the New York State College Tuition Savings Program and/or designate a beneficiary on an account, provided they have a taxpayer identification number.

The federal DREAM Act of 2017

At the federal level, the federal DREAM Act of 2017 (“federal DREAM Act”) was introduced by Senators Dick Durbin (D-III) and Lindsey Graham (R-S.C.) during the 115th Congress (2017-2018 Legislative session) on July 20, 2017.³⁴ The bipartisan bill would create a direct path to U.S. citizenship for individuals who are either undocumented, have DACA or temporary protected status (TPS), and who meet other specific criteria, including passing a comprehensive background check.³⁵

The federal DREAM Act would authorize the cancellation of removal for DREAMers and lays out a three-step path to citizenship, by providing Conditional Permanent Resident (CPR) status to undocumented youth who entered the U.S. before the age of eighteen; entered at least four years prior to enactment and have since been continuously physically present in the country; have not been convicted of a crime where the term of imprisonment was more than a year; and who have been admitted to an institution of higher education, have graduated high school or obtained a GED, or are currently enrolled in secondary school or a program assisting students obtain a diploma or GED.

After eight years in CPR status, individuals become eligible to apply for legal permanent resident (LPR) status. After five years in LPR status, the individual becomes eligible to apply for U.S. citizenship.³⁶ In total, the path to citizenship set forth in the federal DREAM Act takes thirteen years.

To remove the conditional basis of their resident status and become a full-fledged LPR, the applicant would have to meet various requirements.³⁷ Specifically, they must not have certain criminal convictions on their record or have abandoned their residence in the U.S. Additionally, they must have done one of the following: acquired a degree from an institution of higher education, or completed at least two years in a bachelor’s degree program, or served for at least two years in the armed services, or been employed for periods totaling at least three years, at least 75 percent of which time was working with valid employment authorization. (If the individual was not employed, they must show that they were enrolled in school or an education program.),³⁸ demonstrate the ability to read, write and speak English and show a knowledge and understanding of U.S. civics; and pass a background check.

³³ <http://nyassembly.gov/Press/20170206/>

³⁴ <https://www.congress.gov/bill/115th-congress/senate-bill/1615/actions>

³⁵ <https://www.nilc.org/wp-content/uploads/2017/07/DreamAct2017-summary-and-facts-2017-07-24.pdf>

³⁶ <https://www.nilc.org/wp-content/uploads/2017/07/DreamAct2017-summary-and-facts-2017-07-24.pdf>

³⁷ <https://www.nilc.org/wp-content/uploads/2017/07/DreamAct2017-summary-and-facts-2017-07-24.pdf>

³⁸ A hardship exception may be available for people who do not meet at least one of the four requirements listed immediately above.

VII. ECONOMIC BENEFITS

Investments made pursuant to the NYS DREAM Act and the federal DREAM Act would help countless young immigrants attain the benefits of a college diploma and work authorization. Specifically, they would help DREAMers acquire the skills necessary for the jobs of the future and, like the immigrant generations before them, contribute significantly to the state and nation's social, academic, cultural and economic greatness.³⁹

Access to financial aid would help more undocumented students to attend college, and the cost to the state could potentially be mitigated by the economic benefits – a better-educated workforce – and this would benefit New York's economy.⁴⁰ Higher incomes could also generate higher state and local tax payments.

State and local taxpayers are already investing in the education of undocumented students in elementary, secondary school, and high school. Letting the talent of DREAMers go to waste imposes economic and emotional costs on undocumented students and the U.S. as a whole.⁴¹ The City University of New York (CUNY) reported that more than three-quarters of its students who graduated between 1981 and 2008 remained in New York State.⁴² This means that, given the opportunity to reside and work lawfully, New York's undocumented students would have a meaningful opportunity contribute back to their communities.

Continuing to invest in the City's youth and making it easier for more young immigrants to attend college could bring a strong return on invest by allowing individuals to develop successful careers. For example, in New York, workers with a college education pay on average \$3,900 more in state and local taxes every year compared to workers with a high school diploma.⁴³ Currently, the 1.3 million young undocumented immigrants granted, or immediately eligible for, DACA across the U.S. contribute an estimated \$2 billion a year in state and local taxes.⁴⁴ Further, DACA-eligible individuals pay on average 8.9% of their income in state and local taxes. Their effective tax rate is higher than the average rate of 5.4% paid by the top 1% of taxpayers in state and local taxes and is on par with the average rate of 9.4% paid by the middle 20% of taxpayers.⁴⁵ The tax revenues generated by DACA recipients are further boosted by the fact that DACA status boosts employment rates and wages.⁴⁶ It is estimated that continuing DACA and ensuring all who are eligible for the program are enrolled would increase state and local revenue by \$425 million, bringing the total contribution to \$2.45 billion, and increasing the effective tax rate for those enrolled to 9%.⁴⁷ Furthermore, when given reprieve from deportation and the opportunity to work legally, DACA recipients are able to work more, earn better wages, and are less likely to be victims of wage theft from unscrupulous employers.⁴⁸ In contrast, repealing the temporary legal status and work authorizations permitted by DACA would reduce estimated state and local revenues by nearly \$800 million, and drop the total contributions to just over \$1.2 billion annually.⁴⁹

While maintaining the DACA program would clearly have a positive impact on the economy, creating a path to citizenship such as that put forth in the federal DREAM Act, could provide nearly \$505 million in additional state and local taxes, increasing total contributions to at least \$2.53 billion a year⁵⁰ and further empower DREAMers to reach their full potential.

VIII. CONCLUSION

Based on the well-documented contributions of undocumented youth and DACA grantees, an investment in New York States's DREAMers is in an investment in New York's future. The New York State DREAM

³⁹ <http://assembly.state.ny.us/Press/20130212/>

⁴⁰ <https://www.osc.state.ny.us/osdc/rpt1-2014.pdf>

⁴¹ <https://americanimmigrationcouncil.org/research/dream-act>

⁴² <https://www.osc.state.ny.us/osdc/rpt1-2014.pdf>

⁴³ <http://nycdreamers.weebly.com/uploads/4/6/3/3/46339893/new-york-dream-act-infosheet.pdf>

⁴⁴ <https://itep.org/state-local-tax-contributions-of-young-undocumented-immigrants/#.WQJBmvnyuUm>

⁴⁵ Davis, Carl, et al. "Who Pays? A Distributional Analysis of the Tax Systems in All 50 States, 5th ed.", Institute on Taxation and Economic Policy, Jan. 2015, www.whopays.org.

⁴⁶ <https://itep.org/state-local-tax-contributions-of-young-undocumented-immigrants/#.WQJBmvnyuUm>

⁴⁷ <https://itep.org/state-local-tax-contributions-of-young-undocumented-immigrants/#.WQJBmvnyuUm>

⁴⁸ <https://itep.org/state-local-tax-contributions-of-young-undocumented-immigrants/#.WQJBmvnyuUm>

⁴⁹ <https://itep.org/state-local-tax-contributions-of-young-undocumented-immigrants/#.WQJBmvnyuUm>

⁵⁰ <https://itep.org/state-local-tax-contributions-of-young-undocumented-immigrants/#.WQJBmvnyuUm>

Act and the federal DREAM Act of 2017 provide the necessary initial steps toward supporting undocumented youth. These bills fill gaps in areas where Congressional inaction on broader immigration reform has left millions of bright young minds in limbo and without many avenues to better their lives. Allowing undocumented students to access financial aid and scholarships would greatly alleviate some of the financial burden they face when pursuing higher education. The passage of the New York Dream Act and the federal DREAM Act of 2017 would allow students who are New York residents, regardless of their status, to have equal access to various forms of financial aid so that they can pursue a higher education. If enacted, the benefits of these pieces of legislation would greatly improve the quality of life for undocumented youth and young adults residing in New York State, as well as their families.

Accordingly, this Committee recommends its adoption, as amended.

(The following is the text of Res. No. 1484-A:)

Res. No. 1484-A

Resolution denouncing the termination of the DACA program and calling on the state and federal government to extend protections for undocumented youth by passing the New York State DREAM Act of 2017, as well as the federal DREAM Act of 2017.

By Council Members Menchaca, The Speaker (Council Member Mark-Viverito), Dromm, Constantinides, Koo, Salamanca, Chin, Eugene, Espinal and Kallos.

Whereas, The U.S. Department of Homeland Security (DHS) estimates that there are 11.4 million undocumented immigrants residing in the United States (U.S.); and

Whereas, Undocumented youth came to the U.S. at a young age, often brought by their parents, are called “DREAMers;” and

Whereas, The average age that DREAMers entered the U.S. is six years old; and

Whereas, Many DREAMers did not know they were unauthorized immigrants until they were teenagers and discovered they were not eligible for a driver’s license or financial aid for college; and

Whereas, DREAMers are forced to live in the shadows of society because, generally, they do not have a direct path to lawful immigration status and are, therefore, at risk of deportation; and

Whereas, The original DACA program, established in 2012, allows individuals who were under the age of 31 as of June 15, 2012; came to the U.S. as children under the age of 16; have lived in the U.S. continuously since June 15, 2007; and meet certain other criteria, to request consideration for deferred action for a period of two years, subject to renewal; and

Whereas, On June 29, 2017, the attorney general of Texas, along with attorneys general from Louisiana, Alabama, Nebraska, Arkansas, South Carolina, Idaho, Tennessee, West Virginia and Kansas, sent a letter to U.S. Attorney General Jeff Sessions threatening to sue the federal government if DHS did not rescind the 2012 DACA memo by September 5, 2017; and

Whereas, On September 5, 2017, DHS announced the rescission of the 2012 DACA memo, effectively terminating the program; and

Whereas, As a result, DHS stopped accepting initial and renewal DACA applications, except for a very limited group of DACA grantees whose DACA grants expire on or before March 5, 2018 and submitted renewal applications by October 5, 2017; and

Whereas, Those DACA grantees whose DACA grants expire on or after March 6, 2018 were not eligible to apply for renewal and, upon expiration, will return to the immigration status they held prior to receiving deferred action, if any; and

Whereas, The decision by DHS to terminate the DACA program, while offering no alternative program or policy, drastically disrupts the lives of the roughly 800,000 DACA grantees in the U.S.; and

Whereas, Congressional inaction regarding undocumented youth must end in order to protect all DREAMers, regardless of whether they participated in the DACA program; and

Whereas, In order to support DREAMers and immigrant families, two key pieces of legislation, the New York State DREAM Act of 2017 and the federal DREAM Act of 2017, should be passed and signed into law without delay; and

Whereas, The 1982 Supreme Court's landmark decision in Plyler v. Doe held that states cannot constitutionally deny students a free public education on account of their immigration status or the immigration status of their parents or guardians; and

Whereas, Undocumented students represent one of the most vulnerable groups served by U.S. schools; and

Whereas, Each year, more than 65,000 undocumented students graduate from high school in the U.S.; and

Whereas, Roughly 54 percent of undocumented youth have earned a high school diploma, compared to 82 percent of their U.S. born-peers; and

Whereas, Undocumented students who wish to pursue higher education are typically ineligible for most forms of financial aid because of their immigration status, including student loans, work-study programs, and other grants; and

Whereas, Tom K. Wong of the University of California, San Diego, United We Dream, the National Immigration Law Center, and the Center for American Progress surveyed roughly 3,000 DACA recipients across 46 states, including the District of Columbia and found that 91 percent of respondents reported they were currently employed and about 45 percent were currently in school, of which 72 percent were pursuing higher education; and

Whereas, The Center for American Progress estimates that the U.S. is likely to lose about \$460 billion in GDP over the next 10 years without DACA; and

Whereas, According to the 2010 U.S. Census, New York State is home to 4.3 million immigrants, three million of whom live in New York City; and

Whereas, The Fiscal Policy Institute estimates that there are about 3,627 undocumented students who graduate from high school each year in New York State; and

Whereas, Out of the number of undocumented students who graduate from U.S. high schools annually, only 5-10 percent pursue a college degree, in large part, due to tremendous financial obstacles; and

Whereas, An estimated 146,000 undocumented students who have been educated in New York State public schools are currently ineligible to receive financial aid under federal and state law; and

Whereas, Despite these significant challenges, undocumented students who manage to attend and graduate from two and four-year educational institutions achieve high levels of academic and professional success; and

Whereas, As a testament to this success, in 2015, the New York State judiciary established a groundbreaking policy regarding professional licensing for undocumented immigrants by admitting New York's first undocumented lawyer to the bar; and

Whereas, Since 2002, undocumented students in New York State who graduate from a New York high school or receive the equivalent of a high school diploma qualify for in-state tuition at the State University of New York (SUNY) and the City University of New York (CUNY) schools; and

Whereas, According to the Fiscal Policy Institute, there are strong fiscal and economic benefits to the state when the labor force is better educated; and

Whereas, The median income of a New York State worker with a bachelor's degree is \$25,000 higher per year than for a worker possessing only a high school diploma; and

Whereas, New York State Assembly Member Francisco Moya introduced the New York State DREAM Act during the New York Legislature's 2017-2018 Regular Session; and

Whereas, The New York State DREAM Act would increase access for eligible immigrant youth and the children of undocumented immigrants to various forms of financial assistance, including the Tuition Assistance Program, Higher Education Opportunity Program, Collegiate Science and Technology Entry Program, Educational Opportunity Program and other such programs available at community colleges, as well as establishes a fund that would provide financial assistance to eligible immigrants who wish to pursue higher education; and

Whereas, The New York State DREAM Act would eliminate barriers for immigrant families to save for higher education expenses by allowing them to open a New York State 529 family tuition account under the

New York State College Tuition Savings Program and/or designate a beneficiary on an account, provided they have a taxpayer identification number; and

Whereas, At the federal level, the DREAM Act of 2017 was introduced by Senators Dick Durbin (D-Ill) and Lindsey Graham (R-S.C.) during the 115th Congress (2017-2018 Legislative session); and

Whereas, The federal DREAM Act of 2017 would authorize the cancellation of removal and adjustment of status of DREAMers, who are long-term U.S. residents and who entered the U.S. as children; and

Whereas, The DREAM Act of 2017 would also allow young immigrants who have called the U.S. home for most of their lives to realize their full potential by allowing them to study and work without the fear of deportation; and

Whereas, The DREAM Act of 2017 lays out a path to citizenship, by providing Conditional Permanent Resident (CPR) status to undocumented youth who entered the U.S. under the age of 18; have continuously physically resided in the U.S. for the four years preceding the legislation's enactment; who have not been convicted of a crime where the term of imprisonment was more than a year; and who have been admitted to an institution of higher education, have graduated high school or obtained a GED, or are currently enrolled in secondary school or a program assisting students obtain a diploma or GED; and

Whereas, DACA beneficiaries show positive economic and educational outcomes and have made significant contributions to the U.S. economy, highlighting the benefits of supporting undocumented youth; and

Whereas, DREAMers who pose no threat to public safety should be free from the fear of deportation and have a meaningful opportunity to thrive in the country they call home; and

Whereas, Giving DREAMers access to higher education and the opportunity to attend college, pursue careers, and further contribute to their communities is also highly beneficial to the economy of New York State, and the country as a whole; and

Whereas, An investment in young immigrants' futures is in an investment in New York's future; now, therefore, be it

Resolved, That the Council of the City of New York denounces the termination of the DACA program and calls on upon the state and federal government to extend protections for undocumented youth by passing the New York State DREAM Act of 2017, as well as the federal DREAM Act of 2017.

CARLOS MENCHACA, *Chairperson*; MATHIEU EUGENE, DANIEL DROMM, PETER A. KOO, RAFAEL L. ESPINAL, Jr.; Committee on Immigration, December 18, 2017.

Pursuant to Rule 8.50 of the Council, the Public Advocate (Ms. James) called for a voice vote. Hearing those in favor, the Public Advocate (Ms. James) declared the Resolution to be adopted.

The following 2 Council Members formally noted their opposition to the passage of this item:
Council Members Borelli and Matteo voted in the negative..

The following Council Member formally noted his abstention from voting on this item:
Council Member Ulrich abstained.

Adopted by the Council by voice-vote.

INTRODUCTION AND READING OF BILLS

Res. No. 1773

Resolution supporting the efforts of Community Board 11 of Manhattan, along with advocates and residents, to remove the statue of Dr. James Marion Sims from Fifth Avenue at 103rd Street.

By Council Member Barron.

Whereas, Dr. James Marion Sims (Dr. Sims) was a physician who is referred to as the “father of modern gynecology” because of his development of innovative tools and surgical techniques in women’s reproductive health; and

Whereas, Dr. Sims was born in Lancaster County, South Carolina, where he later graduated from South Carolina College in 1832 and studied medicine at Jefferson College in Philadelphia in 1835; and

Whereas, Dr. Sims practiced medicine in Lancaster County and went on to establish a practice in Montgomery, Alabama; and

Whereas, While in New York, Dr. Sims founded the Woman’s Hospital of New York in 1855 and was later elected president of the American Medical Association in 1876; and

Whereas, As a result of his groundbreaking surgical methods and inventions in the medical profession, statues of Dr. Sims have been installed in South Carolina, Alabama and New York City; and

Whereas, The statue of Dr. Sims was originally installed in New York City at Bryant Park on October 20, 1894, and was later moved to its current location near the New York Academy of Medicine at Fifth Avenue and 103rd Street in 1934; and

Whereas, Although Dr. Sims received praise for his innovative medical techniques that are still used today, he was also a slave owner who performed a series of medical experiments on enslaved African-American women that led to treating vesicovaginal fistula, which results from difficult childbirths; and

Whereas, These medical experiments have raised ethical questions among the public because the women involved did not give consent and anesthesia was not used during the experiments, and

Whereas, For many years, residents and advocates of East Harlem have called for the statue of Dr. Sims to be removed because of these experiments on enslaved African-American women; and

Whereas, Many jurisdictions around the nation have begun to remove or relocate statues that commemorate leaders of the Confederacy, the political entity that fought against the outlawing of chattel slavery; and

Whereas, On Saturday, August 12, 2017, white supremacists gathered for a scheduled protest in Charlottesville, Virginia, against the city’s plan to remove a statue of Confederate General Robert E. Lee; and

Whereas, The protest resulted in the death of a 32-year-old woman and more than a dozen people injured who were counter-protesting the white supremacists; and

Whereas, The violence in Charlottesville led to Mayor de Blasio announcing that members of the Mayoral Advisory Commission on City Art, Monuments and Markers would conduct a 90-day review of all symbols of hate on city property; and

Whereas, City Council Speaker Melissa Mark-Viverito urged Mayor de Blasio to specifically include the statue of Dr. Sims in the review of all symbols of hate on city property; and

Whereas, According to the *Daily News*, members of Community Board 11 have expressed that the Dr. Sims Statue is “just as offensive as those Confederate monuments being removed in other states”; and

Whereas, The Department of Parks and Recreation (DPR) offered to install a plaque beneath the Dr. Sims statue that would honor three of the women who were subjected to his unnecessarily barbaric experiments; and

Whereas, In June 2016, Community Board 11 of Manhattan (CB 11) voted at their full board meeting to reject the plaque as presented and called for the removal of the statue; and

Whereas, After CB 11’s vote, CB 11 Chair Diane Collier stated that a plaque “is simply not an adequate response to the atrocities that were committed and as East Harlem is a neighborhood predominantly made up of people of color, it is particularly egregious that this statue is installed here”; now, therefore, be it

Resolved, That the Council of the City of New York supports the efforts of Community Board 11 of Manhattan, along with advocates and residents, to remove the statue of Dr. James Marion Sims from Fifth Avenue at 103rd Street.

Referred to the Committee on Parks and Recreation.

Int. No. 1791

By Council Member Cabrera.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the posting of information related to products and services offered at funeral homes

Be it enacted by the Council as follows:

Section 1. Section 20-732 of subchapter 7 of chapter 5 of title 20 of the administrative code of the city of New York is amended to read as follows:

§ 20-732. Statement to be furnished by provider of funeral services. *a. Presentation sheet.* [Any]A provider of funeral services shall prominently display on the funeral services establishment premises and make readily available to any customer or prospective customer a printed presentation sheet. The presentation sheet shall contain an itemized list of all funeral merchandise and services available at the establishment, a statement that the prices therefor are available upon request, and appropriate disclosures regarding legal requirements for procurement of funeral merchandise and services, the form and contents of which shall be prescribed by the commissioner. The presentation sheet shall be made current annually.

b. Statement of consumer rights. A provider of funeral services shall prominently display on the funeral services establishment a printed statement of consumer rights related to the merchandise and services offered at the funeral services establishment. Such statement of consumer rights shall be provided by the commissioner, as further detailed in subdivision c. The owner or operator of any funeral services establishment shall conspicuously post such statement of information in English and any of the six languages most commonly spoken by limited English proficient individuals in the city, as determined by the department of city planning, in which services are offered.

c. The commissioner shall design a statement of consumer rights and distribute the statement of consumer rights related to the merchandise and services offered at funeral service establishments. Such statement shall be created in English and in the six languages most commonly spoken by limited English proficient individuals in the city as determined by the department of city planning. The commissioner shall distribute the statement to all funeral service establishments within the city. The statement of information shall state the consumer rights and information provided in laws and regulations imposed on funeral service establishments in state, federal and local law, including: (i) the Funeral Rule promulgated in 16 C.F.R. chp. 1, subchp. D, pt. 45; (ii) the requirement that funeral directors be licensed by the state of New York, as provided by N.Y. Public Health, art. 34; (iii) that moneys be held in escrow until after the performance of funeral service or delivery of funeral merchandise, as required by N.Y. Gen. Bus., section 453; and (iv) the disclosures required by subchapter 7 of chapter 5 of title 20 of the administrative code of the city of New York.

§ 2. This local law takes effect 120 days after enactment, provided, however, that the commissioner shall take any actions necessary prior to such effective date for the implementation of this local law including, but not limited to, the promulgation of any necessary rules.

Referred to the Committee on Consumer Affairs.

Int. No. 1792

By Council Member Cabrera.

A Local Law to amend the administrative code of the city of New York, in relation to signage for pesticide applications 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 18-148 to read as follows:

§18-148 Signage for pesticide application. a. For the purposes of this section, the term "mandatory language" means English and any covered language, as defined by subdivision j of section 8-1002.

b. Any sign placed within a property under the jurisdiction of the department regarding pesticide applications shall be posted in all mandatory languages.

§ 2. This local law shall take effect 180 days after its enactment.

Referred to the Committee on Parks and Recreation.

Int. No. 1793

By Council Member Cabrera.

A Local Law to amend the administrative code of the city of New York, in relation to requiring parking facilities to accept payments via a mobile application

Be it enacted by the Council as follows:

Section 1. Subchapter 2 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-175.5 to read as follows:

§ 19-175.5 Mobile application payments at parking facilities. By July 1, 2016, the department shall accept payments for the purchase of time in parking facilities operated by or under contract or similar agreement with the city via a mobile application. Any such application shall also provide information on accrued fees which shall update on an hourly basis.

§ 2. Subchapter 17 of chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-327.2 to read as follows:

§ 20-327.2 Mobile application payments. By July 1, 2016, the operators of garages and parking lots shall accept payments for the purchase of time in garages and parking lots via a mobile application. Any such application shall also provide information on accrued fees which shall update on an hourly basis.

§ 3. This local law takes effect immediately.

Referred to the Committee on Transportation.

Res. No. 1774

Resolution calling upon the New York State Legislature to pass and the Governor to sign, A.1532/S.3330, collectively known as the "Safe Staffing for Quality Care Act," to ensure that acute care facilities and nursing homes meet the appropriate staffing ratios for nurses and unlicensed direct care staff.

By Council Member Cabrera.

Whereas, In order to maintain low operating costs hospitals will reduce the number of nurses, because they comprise the largest clinical subgroup in hospitals; and

Whereas, According to the United States Department of Health and Human Services (HHS), the inadequacy of nursing staff levels has led to poor patient outcomes; and

Whereas, Studies indicate that higher nursing workloads are associated with increased medication errors, increased rates of infection and even increased mortality rates; and

Whereas, A report published by the United States Department of Health and Human Services, indicates that better registered nurse (RN) staffing policies, such as reducing the number of patients assigned to individual nurses, results in better patient outcomes and lower costs to health care providers; and

Whereas, According to a report published by Health Services Research in 2012, nursing homes which have safe staff ratios have better quality facilities and improved functional status of the residents; and

Whereas, In 2004 California passed the Minimum Nurse Staffing Legislation, which required hospitals to institute nurse to patient ratios; and

Whereas, Studies have shown that nurses in California have reported a better quality of life and improved patient care as a result of the law; and

Whereas, In 2017, New York State Senator Kemp Hannon introduced S. 3330 and New York State Assembly Member Aileen Gunther introduced A.1532, which are collectively known as the Safe Staffing for Quality Care Act; and

Whereas, The Safe Staffing for Quality Care Act would require all acute care facilities in New York State to adopt specific nurse-to-patient ratios, set minimum staffing requirements and submit a staffing plan to the State Department of Health; and

Whereas, The Safe Staffing for Quality Care Act also includes such important provisions as allowing RNs to refuse work assignments if adequate staffing is not present, which safeguard the rights of nurses and patients alike; and

Whereas, Ensuring adequate nursing coverage for all patients is an important public health goal that will improve the quality of care in acute care facilities and nursing homes; now, therefore, be it

Resolution calling upon the New York State Legislature to pass and the Governor to sign, A.1532/S.3330, collectively known as the "Safe Staffing for Quality Care Act," to ensure that acute care facilities and nursing homes meet the appropriate staffing ratios for nurses and unlicensed direct care staff.

Referred to the Committee on Aging.

Res. No. 1775

Resolution calling on the New York State Legislature to pass and the Governor to sign, S.4935, the Senior Housing Opportunities Partnership Act, which would establish the New York State Senior Housing Opportunities Partnership Authority for the purpose of financing senior housing opportunities facility projects.

By Council Member Cabrera.

Whereas, In New York City, there are 1.55 million adults over the age of 60, who account for 18.2 percent of the population; and

Whereas, According to the Department for the Aging's Annual Plan summary, the population of New York City residents over the age of 60 is likely to increase to 1.86 million by 2040 and will account for 20.6 percent of the total population; and

Whereas, According to the U.S. Census Bureau, ninety-six percent of older New Yorkers are currently aging in place, meaning older adults are choosing to remain in their homes rather than relocate; and

Whereas, In New York City, senior housing developments are built with structural modifications to help seniors age in place, such as wheelchair accessible bathrooms and kitchens, guard rails in the hallways, and improved lighting; and

Whereas, As City residents age they may begin to face challenges with mobility, vision and other impairments, which can increase the risk of living independently; and

Whereas, Without appropriate accessibility features in their places of residence, seniors are at a greater risk for injury from falls and may experience social isolation; and

Whereas, According to a 2013 report from the Center for Urban Future, the increasing cost of rent in New York City can hinder a senior's ability to age in place because seniors often live on a fixed income and have limited savings and they are not able to keep up with rent increases; and

Whereas, According to data from the United States Census Bureau, the 2016 federal poverty level for a single individual over 65 was \$11,511 annually and the federal poverty level for a household with two individuals over 65 was \$14,507 annually; and

Whereas, According to the United States Social Security Administration, the average Social Security retirement benefit for January 2016 was \$1,341 a month; and

Whereas, According to a report from 2015 by the Citizen's Budget Commission, housing affordability is defined as the ratio of housing costs to household income; and

Whereas, The standard threshold for deeming a household "rent burdened" is when rent exceeds 30 percent of income and a household is extremely rent burdened when rent exceeds 50 percent of gross monthly income; and

Whereas, According to the same 2015 report by the Citizen's Budget Commission, 32 percent of New York City seniors over the age of 60 and living alone are low-income and severely rent burdened and 21 percent of New York City seniors over the age of 60 who live with multiple adults are low income and severely rent burdened; and

Whereas, According to a report by AARP, the lack of affordable housing options forces seniors into nursing homes which add to high health care costs; and

Whereas, Senior housing developments often require eligible applicants to wait for a lottery system which can take months due to limited housing that is available; and

Whereas, Even if seniors do find housing through a lottery, they are often required to relocate from their traditional neighborhood; and

Whereas, In 2017, New York State Senator Ruben Diaz Sr. introduced S. 4935, to establish the New York State Senior Housing Opportunities Partnership Authority ("The Authority"), which would work with small-cap banks and developers to expand senior housing in New York State; and

Whereas, The Authority would either provide funding or collaborate with senior housing opportunities development corporations, to construct senior housing facilities and to fund senior housing developments; and

Whereas, S. 4935 would define a senior housing opportunities facility as any structure, improvement, furnishing, equipment or real or personal property to be used in whole or in excess of fifty percent for housing for seniors, whether as rental or owner-occupied housing; and

Whereas, According to S. 4935, a senior housing opportunities facility includes naturally occurring retirement community (NORCs), market-rate-independent living, adult home, as well as any recreational, educational, cultural, office, living, rehearsal, parking, restaurant, retail, storage, and other facilities necessary or desirable in connection with activities of the senior facility; and

Whereas, The Authority would also allow housing built by the Authority to be restricted to individuals sixty years of age and older; now, therefore, be it

Resolved, That the Council of the City of New York, calls upon the New York State Legislature pass and the Governor to sign, S.4935, the Senior Housing Opportunities Partnership Act, which would establish the New York State Senior Housing Opportunities Partnership Authority for the purpose of financing senior housing opportunities facility projects.

Referred to the Committee on Aging.

Res. No. 1776

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, legislation that would allocate all additional property tax revenue generated from residential properties that are converted from a multi-unit residence to a single-family residence to support the development of affordable housing in New York City.

By Council Member Cabrera.

Whereas, Affordable housing is a fundamental aspect of a thriving New York City and critical to providing essential shelter, financial stability, and economic mobility for all New Yorkers; and

Whereas, The Department of City Planning estimates the population of New York City to increase by 783,000 residents, or 9.5 percent, between 2010 and 2040; and

Whereas, According to New York University's Furman Center, which provides research and analysis on housing, real estate, and urban policy, the majority of low-income New Yorkers are considered rent-burdened; and

Whereas, The City's rental vacancy rate declined from 4.4 percent in 2010 to 3.5 percent in 2015 evidencing fewer available apartments; and

Whereas, According to the Furman Center, the number of middle-income households that are rent-burdened is growing, and the share of available rental units that are affordable for low-income New Yorkers is declining; and

Whereas, Providing affordable housing is important to this Council and this Administration, which is working towards its goal to construct or preserve 200,000 affordable rental units by 2024; and

Whereas, The shortage of affordable housing is exacerbated by the conversion of multiple dwelling residential properties to single-family homes, usually purchased by high-income individuals; and

Whereas, The property taxes that would be levied on the converted property would likely be higher than those levied on the property when it was a multiple dwelling residential property because physical improvements made to a property are not subject to the caps that limit the property's annual growth in assessed value; and 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 that would allocate all additional property tax revenue generated from residential properties that are converted from a multi-unit residence to a single-family residence to support the development of affordable housing in New York City.

Referred to the Committee on Finance.

Res. No. 1777

Resolution calling upon the United States Congress to pass and the President to sign legislation allowing licensed mental health service providers and licensed family therapists to be reimbursed through Medicaid and Health Care Marketplace plans for provision of counseling and therapy services.

By Council Member Cabrera.

Whereas, According to Medicaid.gov., the Mental Health Parity and Addiction Equity Act (MHPAEA) requires Medicaid and other programs to comply with mental health and substance use disorder parity requirements; and

Whereas, MHPAEA makes it easier for Americans with mental health and substance use disorders to get the care they need by prohibiting certain discriminatory practices that limit coverage for behavioral mental health treatment and services; and

Whereas, The National Alliance on Mental Illness contends that Medicaid is a public health insurance program that is jointly funded by the states and the federal government, and that investment in adequate community-based health and mental health services can also prevent tragedies such as school failure, incarceration, homelessness and unnecessary loss of life; and

Whereas, As President Donald Trump works to repeal the Affordable Care Act (ACA) with the support of Congress, people with addiction and mental health disorders and their families wonder how now-covered-persons would be impacted without insurance coverage; and

Whereas, USA Today reports that “the people helped most by the ACA are the very ones most likely to suffer from poor mental health and addiction”; and

Whereas, The National Council on Behavioral Health asserts that federal law requires insurers to cover mental health and addiction at the same level they do for other diseases would be “useless” if there is no insurance coverage for low income patients; and

Whereas, Executive management at Montefiore Medical Center in the Bronx has expressed numerous mental health programs are contingent upon patients getting early treatment in primary care, which would fail to occur under a repeal of the ACA; and

Whereas, Modern Healthcare magazine reported that “low-income patients often take longer to treat because they have other issues that must be addressed, including poor housing, transportation and nutrition and that it often falls to mental health professionals to deal with these issues”; and

Whereas, The National Council for Behavioral Health has opined in a statement on the Graham-Cassidy-Heller-Johnson Bill, the latest iteration of healthcare reform, that “this bill may go by a different name than previous efforts to reshape the health care system, but it maintains- and even worsens-the devastating provisions from those bills that led to a massive constituent outcry earlier this summer”; and

Whereas, An article in The Nation magazine reports that “The GOP’s Health-Care Plan Could Strip Addiction and Mental-Health Coverage from 1.3 Million,” and that “[c]ontrary to Trump’s talk, his party is aiming to pull the rug out from under people grappling with substance-abuse or mental health issues”; and

Whereas, Referring to the dismantling of The Affordable Care Act, the Harm Reduction Coalition has issued a statement that “[p]eople with substance-abuse disorders are going to be the first casualty if this moves forward”; 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 legislation allowing licensed mental health service providers and licensed family therapists to be reimbursed through Medicaid and Health Care Marketplace plans for provision of counseling and therapy services.

Referred to the Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services.

Res. No. 1778

Resolution calling upon the federal government to create a division of the Transit Security Administration authorized to carry firearms.

By Council Member Cabrera.

Whereas, In wake of violent incidents, such as shootings and stabbings, security at airports has become a growing national concern; and

Whereas, According to various reports, on January 7, 2017 a man went on a shooting rampage with a handgun he packed in a checked bag at Fort Lauderdale International Airport, killing five people and injuring six; and

Whereas, In response to a violent machete attack at Louis Armstrong New Orleans International Airport in 2015, where a Transit Security Administration (TSA) agent was injured, the American Federation of Government Employees called for the creation of a force within the TSA that would be armed and authorized to use deadly force at airports across the nation; and

Whereas, While TSA agents are on the frontlines of airport security, they are currently banned from carrying weapons; and

Whereas, According to J. David Cox, the president of the union that represents TSA employees, airports around the nation rely too heavily on local police departments to react to, detain, and arrest suspects; and

Whereas, TSA employees are often the first enforcement officials passengers come into contact with at airports, making them especially vulnerable; and

Whereas, According to various reports, in November of 2013, a TSA officer was shot and killed by an armed suspect who ran through a security checkpoint in Los Angeles and terrorized passengers before being arrested and charged by the Los Angeles Airport Police; and

Whereas, Experts have warned that areas of the airport that are open to the general public are potential targets, since there are no obvious security barriers; and

Whereas, In August 2016 thousands of uniformed commuters in two terminals hid behind pillars and under seats after someone reported hearing gun shots at John F. Kennedy Airport; and

Whereas, Although there was not a gunman, the Port Authority Police Department found that the airport lacked communication with the public, and lacked resources and officers to handle the situation if there was an active shooter involved; and

Whereas, While airport security after the September 11th, 2001 terrorist attacks have primarily focused on preventing airborne attacks, maintaining the safety of passengers and the public, as well as airport staff, is vital; and

Whereas, Developing a special armed unit within the TSA, trained to handle volatile situations, could streamline security and make for a more efficient response to violent incidents; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the federal government to create a division of the Transit Security Administration authorized to carry firearms

Referred to the Committee on Transportation.

Int. No. 1794

By Council Member Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to reporting on contract awards made from discretionary funds allocated by a council member

Be it enacted by the Council as follows:

Section 1. Title 1 of Chapter 6 of the administrative code of the city of New York is amended to add a new section 6-142 to read as follows:

§ 6-142 Reporting on contract awards made from discretionary funds allocated by a council member. a. Within ten days of the end of each quarter of the fiscal year, the city chief procurement officer shall submit to the speaker of the council a report on the status of contract awards made from discretionary funds allocated by a council member. Such report shall be disaggregated by contracting agency, source of funding, allocating council member and entity to which the funds were allocated and shall include:

- 1. the date on which each contract was entered into or the reason why no contract had yet been entered into;*
- 2. for each contract which was entered into, the date on which such contract was registered with the office of the comptroller or the reason why such contract had not yet been registered; and*
- 3. for each contract entered into and registered, the dollar amount of funds reimbursed pursuant to the contract, and, where full reimbursement under the contract has not yet been made, the reason why full reimbursement has not yet been made.*

b. On December 1, 2019 and each December 1 thereafter, the city chief procurement officer shall submit to the speaker of the council a final report on the information required by paragraph three of the prior subdivision for the prior fiscal year.

c. On the day that the third report of the fiscal year is submitted, the city chief procurement officer shall provide written notification to every council member who allocated discretionary funds where pursuant to such allocation a contract was not yet entered into, not yet registered with the office of the comptroller or not yet fully reimbursed. For contracts which were not yet fully reimbursed, such notification shall include the dollar amount of funds outstanding for reimbursement.

§ 2. This local law takes effect July 1, 2018.

Referred to the Committee on Finance.

Int. No. 1795

By Council Member Cohen.

A Local Law to amend the New York city charter, in relation to the use of government resources during an election campaign

Be it enacted by the Council as follows:

Section 1. Paragraph (b) of subdivision 2 of section 1136.1 of the New York city charter is amended to read as follows:

(b) No public servant who is a candidate for nomination or election to any elective office or the spouse of such public servant shall use, cause another person to use, or participate in the use of governmental funds or resources for a mass mailing that is postmarked, if mailed, or delivered, if by other means, less than thirty [ninety] days prior to any primary or general election for any elective office for which office such person is a candidate for nomination or election; provided, however, that a candidate may send one mass mailing, which shall be postmarked, if mailed, or delivered, if by other means, no later than twenty-one days after the adoption of the executive budget pursuant to section two hundred fifty-four. No such mass mailing shall be intentionally sent to individuals outside the particular council district, borough, or other geographic area represented by such candidate.

§ 2. This local law takes effect immediately.

Referred to the Committee on Governmental Operations.

Int. No. 1796

By Council Member Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to requiring mental health assistance to persons in need following police encounters

Be it enacted by the Council as follows:

Section 1. Title 17 of the administrative code of the city of New York is amended by adding a new chapter 19 to read as follows:

Chapter 19
Mental Health Assistance Following Police Encounters

§ 17-1901 Definitions. For the purposes of this chapter, the following terms have the following meanings:

Emotionally disturbed person. The term “emotionally disturbed person” means a person who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner that a police officer reasonably believes is likely to result in serious injury to self or others.

Police encounter. The term “police encounter”

1. Means:

(a) An interaction between a police officer and an emotionally disturbed person that results in a desk appearance ticket or a criminal summons;

(b) An interaction between a police officer and an emotionally disturbed person that results in such person being transported to a health care facility in lieu of an arrest; or

(c) An interaction in which a police officer responds to a call involving an emotionally disturbed person that does not result in a law enforcement action.

2. Does not mean an interaction in which an emotionally disturbed person has been stopped, questioned or frisked by a police officer pursuant to subdivision 4 of section 140.50 of the criminal procedure law.

§ 17-1902 Post-encounter follow-up teams. a. Within five days of a police encounter the department shall attempt to locate the emotionally disturbed person using all available contact information. If the department fails to locate such person upon its initial attempt, the department shall make an additional attempt within 14 days of the initial attempt.

b. If the department is able to locate such person, the department shall offer services and resources offered by the city that the department deems appropriate for such person, and shall advise such person of additional appropriate services and resources offered by other governmental and non-governmental entities.

§ 2. This local law takes effect 180 days after it becomes law.

Referred to the Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services.

Int. No. 1797

By Council Member Cohen.

A Local Law to amend the administrative code of the city of New York to require the police department to issue a quarterly report on the department’s response to calls involving people in mental crisis to measure the efficacy of the department’s Crisis Intervention Team training program.

Be it enacted by the Council as follows:

Section 1. Title 14 of the administrative code of the city of New York is amended by adding a new section 14-170 to read as follows:

§ 14-170 Online reporting of the department’s response to calls involving emotionally disturbed persons.

a. Definitions. For purposes of this section, the following terms have the following meanings: Crisis intervention team. The term “crisis intervention team” means the department’s training program designed to help officers assist individuals who are in crisis due to mental health problems, developmental disabilities, or substance abuse.

Emotionally disturbed person. The term “emotionally disturbed person” means a person who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to themselves or others.

b. Crisis intervention team training report. No later than 30 days after the quarter ending March 31, 2018 and 30 days after every quarter thereafter, the department shall publish on the department’s website a report which shall include:

1. the total number of calls received in which the dispatcher was aware of the involvement of an emotionally disturbed person;

2. the total number of calls in which the dispatcher was aware of the involvement of an emotionally disturbed person and a crisis intervention team trained officer was dispatched;
 3. the total numbers of use of force incidents that involved an emotionally disturbed person;
 4. the total number of calls in which the dispatcher was aware of the involvement of an emotionally disturbed person and the emergency service unit was dispatched;
 5. the total number of arrests involving an emotionally disturbed person, disaggregated by age, race, and gender; and
 6. the total number of incidents in which the department transported an emotionally disturbed person to a hospital or mental health facility in lieu of an arrest.
- c. Such data shall be stored permanently, and shall be accessible from the department's website in a format that permits automated processing.
- d. *Community Survey.* No later than January 1, 2018, and every January 1 thereafter, the department shall develop and distribute a community survey to the public assessing the public's confidence in the department's ability to assist individuals with mental illnesses, disaggregated by precinct. The department shall post the results of such survey on the department's website on or before March 31, 2018 and every March 31 thereafter.

§2. This local law takes effect immediately.

Referred to the Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services.

Int. No. 1798

By Council Member Cohen.

A Local Law to amend the administrative code of the city of New York, requiring NYPD officers involved in an incident with an emotionally disturbed person to complete an incident report.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 14 of the administrative code of the city of New York is amended by adding a new section 14-170 to read as follows:

§ 14-170 *Filing of an emotionally disturbed person involved incident report.*

a. *Definitions.* As used in this section, the following terms have the following meanings:

Emotionally disturbed person involved incident report. The term "emotionally disturbed person involved incident report" means a written document that includes the following:

1. the name and residence of the emotionally disturbed person;
2. the time, date, and location of the incident;
3. the name and precinct of the responding officer;
4. a detailed description of the incident; and
5. information detailing the resolution of the incident, including whether the emotionally disturbed person was arrested or transported to a health facility.

Emotionally disturbed person. The term "emotionally disturbed person" means a person who appears to be mentally ill or temporarily deranged and is conducting themselves in a manner which a police officer reasonably believes is likely to result in serious injury to themselves or others.

b. *Filing of emotionally disturbed person involved incident report.* An officer shall complete an emotionally disturbed person involved incident report subsequent to the resolution of any incident involving an emotionally disturbed person.

§ 2. This local law takes effect 120 days after it becomes law.

Referred to the Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services.

Int. No. 1799

By Council Member Constantinides.

A Local Law to amend the administrative code of the city of New York, in relation to expanding the availability of electric vehicle chargers

Be it enacted by the Council as follows:

Section 1. Subchapter 1 of chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-101.55 to read as follows:

§ 19-101.55. *Electric vehicle chargers. a. Definitions. For purposes of this section, the term “fast-charging or level-three electric vehicle charger” means electric vehicle charging equipment capable of providing an electric vehicle with a 75 percent charge in less than 60 minutes.*

b. The department shall (i) install and maintain or (ii) enter into a contract with a third party to install and maintain at least 100 fast-charging or level-three electric vehicle chargers in each borough of the city accessible from existing on-street public parking spaces. The department shall begin installation of such electric vehicle chargers within one year of this law taking effect and shall complete installation within three years of this law taking effect.

c. The department shall (i) install and maintain or (ii) enter into a contract with a third party to install and maintain fast-charging or level-three electric vehicle chargers accessible from at least one out of every 10 on-street public parking spaces created after June 1, 2018.

§ 2. This local law takes effect immediately.

Referred to the Committee on Transportation.

Res. No. 1779

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, legislation which would authorize the city of New York to provide for a residential parking permit system in the neighborhood of Woodside.

By Council Member Crowley.

Whereas, The population of the city of New York is over 8.5 million residents; and

Whereas, Moreover, the population density in some areas of the city can reach 100,000 per square mile, with 1.4 million households owning cars; and

Whereas, As a 2011 *New York Times* article explained, parking is a serious problem in New York City along streets surrounding popular arenas, like Barclays Center in Brooklyn and the Yankee Stadium in the Bronx; and

Whereas, Neighborhoods like Woodside Queens are in need of relief; and

Whereas, A residential parking permit system would reserve parking for residents in their neighborhoods; and

Whereas, Moreover, a residential parking system would prohibit nonresidents from parking at certain times of the day or evening; and

Whereas, Additionally, a residential parking permit system may decrease the congestion of cars in the neighborhood, because visitors would be encouraged to take public transportation and

Whereas, the State Legislature has authorized residential parking systems for cities with less density than the city of New York, including Rye, Ithaca, Beacon, Auburn, and Binghamton; and

Whereas, The State Legislature has also authorized a pilot residential parking system in the city of Albany; and

Whereas, In order to enable some residents throughout the city, in neighborhoods overcrowded by visitors, to park near their homes, the City government should be empowered to regulate parking in these areas; 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 which would authorize the city of New York to provide for a residential parking permit system in the neighborhood of Woodside.

Referred to the Committee on Transportation.

Int. No. 1800

By Council Members Cumbo and Cohen.

A Local Law to amend the administrative code of the city of New York, in relation to creating a mental health coordinator to inform city employees about mental health support and services

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 12 of the administrative code of the city of New York is amended by adding a new section 12-140 to read as follows:

§ 12-140 *Mental health coordinator.* a. *The head of each agency, in consultation with the mayor's office for people with disabilities, shall designate an employee as such agency's mental health coordinator.*

b. *Such mental health coordinator shall assist each agency in coordinating such agency's efforts to comply with the Americans with Disabilities Act and other federal, state, and local laws and regulations concerning accessibility and support for city employees with mental health needs.*

c. *Such mental health coordinator shall perform outreach to employees of the city about mental health services and support services available to such employees, including but not limited to the employee assistance program.*

§ 2. This local law shall take effect in 120 days.

Referred to the Committee on Mental Health, Developmental Disability, Alcoholism, Substance Abuse and Disability Services.

Int. No. 1801

By Council Member Dromm.

A Local Law to amend the administrative code of the city of New York, in relation to offering discharge upgrade assistance and extending city veteran benefits to service members who were discharged because of their LGBTQ status

Be it enacted by the Council as follows:

Section 1. Title 31 of the administrative code of the city of New York is amended by adding a new section 31-106 to read as follows:

§ 31-106 *Benefits and assistance for LGBTQ veterans.* a. *For purposes of this section, the following terms have the following meaning:*

Certificate of Eligibility. The term "certificate of eligibility" means a certificate issued by the department that can be used as proof that a discharged LGBTQ veteran is eligible for certain city benefits or services available to veterans.

Discharged LGBTQ Veterans. The term "discharged LGBTQ veteran" means a veteran who was discharged from the United States military or naval services solely due to sexual orientation, gender identity or expression; statements, consensual sexual conduct, or consensual acts relating to sexual orientation, gender

identity or expression; or the disclosure of such statements, conduct or acts, that were prohibited by the armed forces at the time of discharge.

b. Notwithstanding any other provision of law, no veteran shall be denied eligibility for any city program, service, or benefit to veterans for which they would otherwise be eligible solely on the basis of the veteran's status as a discharged LGBTQ veteran.

c. The department shall offer assistance to any discharged LGBTQ veteran seeking a discharge characterization upgrade, changes of narrative reasons for discharge, changes of separation and separation program designator codes and changes of reentry/reenlistment, where there are no aggravating factors related to the discharge. Such assistance shall be provided by legal counsel or an accredited representative of an organization recognized under section 5902 of title 38 of the United States code or successor provisions.

d. Upon request, the department shall issue a certificate of eligibility to a discharged LGBTQ veteran as proof of their eligibility to receive certain services and benefits for veterans.

e. The department shall make information about obtaining certificates of eligibility for discharged LGBTQ veterans available on the department's website.

f. The commissioner may promulgate such rules as may be necessary to carry out the purposes of this section.

§ 2. This local law takes effect 120 days after enactment, except that the commissioner may take all actions necessary for its implementation, including the promulgation of rules, before such effective date.

Referred to the Committee on Veterans.

Int. No. 1802

By Council Members Deutsch, Levin, Eugene, Constantinides, Cumbo, and Espinal.

A Local Law to amend the administrative code of the city of New York, in relation to the suspension of alternate side of the street parking rules on blocks adjacent to filming.

Be it enacted by the Council as follows:

Section 1. Subchapter two of chapter one of title 19 of the administrative code of the city of New York is amended by adding a new section 19-163.3 to read as follows:

§ 19-163.3 Suspension of parking regulations for filming. a. The issuance of a permit by the mayor's office of film theatre and broadcasting or successor entity that authorizes filming and/or related activity shall result in suspension of alternate side of the street parking rules for the duration of such permit on all blocks adjacent to and any portion of which is within two hundred feet of the location of the filming and/or related activity, and where such filming and/or related activity results in a loss of alternate side parking spaces or spaces where there are no restrictions.

b. In accordance with subdivision c of section 19-175.2 of this subchapter, the party to whom a permit is issued by such mayor's office shall immediately post notice of the parking rule suspensions in the blocks where parking rules are suspended in accordance with subdivision a of this section. The specific content of such notice shall be approved by the commissioner.

§ 2. This local law shall take effect 120 days after its enactment into law.

Referred to the Committee on Transportation.

Preconsidered Res. No. 1780

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

By Council Member Ferreras-Copeland.

Whereas, On June 6, 2017 the City Council adopted the expense budget for fiscal year 2018 with various programs and initiatives (the “Fiscal 2018 Expense Budget”); and

Whereas, On June 14, 2016 the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2017 with various programs and initiatives (the “Fiscal 2017 Expense Budget”); and

Whereas, On June 26, 2015 the Council of the City of New York (the “City Council”) adopted the expense budget for fiscal year 2016 with various programs and initiatives (the “Fiscal 2016 Expense Budget”); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2018, Fiscal 2017, and Fiscal 2016 Expense Budgets by approving the new designation and changes in the designation of certain organizations receiving local and youth discretionary funding, and by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2018 Expense Budget by approving new Description/Scope of Services for certain organizations receiving local and youth discretionary funding and funding pursuant to a certain initiative; now, therefore, be it

Resolved, That the City Council approves the change in the name of the Immigrant Resource Center to the Immigrant Resource Initiative; and

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 1; and be it further

Resolved, That the City Council approves the changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 2; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Anti-Poverty Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 3; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Speaker’s Initiative to Address Citywide Needs in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 4; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural After-School Adventure (CASA) Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 5; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to A Greener NYC Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 6; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Support Our Seniors Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 7; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Healthy Aging Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 8; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the NYC Cleanup Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 9; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Parks Equity Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 10; and be it further

Resolved, That the City Council approves the new designation of a certain organization receiving funding pursuant to the Neighborhood Development Grant Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 11; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural Immigrant Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 12; and be it further

Resolved, That the City Council approves the new designation of a certain organization receiving funding pursuant to the HIV/AIDS Faith Based Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 13; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Art as a Catalyst for Change Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 14; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Job Training and Placement Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 15; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Community Schools Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 16; and be it further

Resolved, That the City Council approves the removal of funds from the administering agency receiving funding pursuant to the Discretionary Childcare Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 17; and be it further

Resolved, That the City Council approves the removal of funds from the administering agency receiving funding pursuant to the Naturally Occurring Retirement Communities (NORCs) Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 18; and be it further

Resolved, That the City Council approves the removal of funds from the administering agency receiving funding pursuant to the Adult Literacy Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 19; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Senior Centers, Programs, and Enhancements Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 20; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Immigrant Resource Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 21; and be it further

Resolved, That the City Council approves the new designation of a certain organization receiving funding pursuant to the Ending the Epidemic Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 22; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Home Loan Program Initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 23; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2017 Expense Budget, as set forth in Chart 24; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2017 Expense Budget, as set forth in Chart 25; and be it further

Resolved, That the City Council approves the change in the designation of a certain organization receiving local discretionary funding in accordance with the Fiscal 2016 Expense Budget, as set forth in Chart 26; and be it further

Resolved, That the City Council amends the description for the Description/Scope of Services for certain organizations receiving local and youth discretionary funding and funding for a certain initiative in accordance with the Fiscal 2018 Expense Budget, as set forth in Chart 27; and be it further

Resolved, That the City Council approves the organizations that will receive equipment from the organization funded by the Beating Hearts Initiative as designated in Schedule C for Fiscal 2018, as set forth in Chart 28.

Adopted by the Council (preconsidered and approved by the Committee on Finance; for Exhibits, please see the attachment to the resolution following the Report of the Committee on Finance for Res. No. 1780 printed in these Minutes).

Int. No. 1803

By Council Members Gentile and Treyger.

A Local Law to amend the administrative code of the city of New York, in relation to creating a license for massage therapy businesses

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 36 to read as follows:

*SUBCHAPTER 36
MASSAGE THERAPY BUSINESSES*

§ 20-570 License. a. License required for massage therapy businesses. It is unlawful for any person to own, control or operate a massage therapy business without having received a license for such business in the manner provided in this subchapter.

b. License application. 1. In order to obtain, or renew thereof, a license to own, control or operate a massage therapy business, a person must submit an application with the commissioner for a license for each location that such person desires to operate a massage therapy business. Such person must use the application form prescribed by the commissioner and must provide such information as the commissioner requires, which shall include but not be limited to, a copy of:

(a) The special permit received from the board of standards and appeals to operate such a business, issued pursuant to section 73-36 of the zoning resolution;

(b) The certificate of occupancy issued by the department of buildings;

(c) Any license or permit issued by the department of health and mental hygiene for any health-related facilities or services offered in conjunction with massage therapy; and

(d) The New York state professional license, issued pursuant to article 155 of the education law, for each practitioner of massage to be employed at the massage therapy business.

2. Any person who receives a massage therapy business license must operate such business at the location named in the license. Any or all of the practices regulated by article 155 of the education law may be provided under one massage therapy business license so long as each practitioner is licensed pursuant to article 155 of the education law.

c. Fee and license term. 1. The fee for a massage therapy business license is \$350 and \$250 for each renewal thereof.

2. All licenses expire four years from the date of issuance.

3. No license is assignable or transferrable except as authorized by rules promulgated by the commissioner.

d. A massage therapy business must conspicuously post a license certificate issued pursuant to this subchapter in the licensed premises.

§ 20-572 Penalties. *a. Any person violating section 20-571 is liable for a civil penalty of not more than \$500 for the first violation and a civil penalty of not less than \$1,500 or more than \$5,000 for each succeeding violation.*

b. A licensed massage therapy business found to be employing practitioners not licensed pursuant to article 155 of the education law is liable for a civil penalty of not more than \$1,500 for the first violation and a civil penalty of not less than \$2,500 or more than \$5,000 for each succeeding violation. The department must also notify the state education department for any violation of article 155 of the education law and the board of standards and appeals for any violation of section 73-36 of the zoning resolution.

§ 2. This local law takes effect 120 days after it becomes law; provided, however, that the commissioner of consumer affairs shall take all actions necessary for its implementation, including the promulgation of rules, before such date.

Referred to the Committee on Consumer Affairs.

Int. No. 1804

By Council Members Johnson, Lander, Williams and Rosenthal.

A Local Law to amend the administrative code of the city of New York, in relation to requiring employers at certain economic development projects and city human services contractors to enter into labor peace agreements

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 6-109 of the administrative code of the city of New York is amended by adding new paragraphs (20) and (21) to read as follows:

(20) *“Labor Organization” has the same meaning as set forth in subdivision (5) of section 152 of title 29 of the United States code.*

(21) *“Labor Peace Agreement” means an agreement between a covered employer and a labor organization that represents employees who perform the type(s) of work to be performed pursuant to the city service contract, where such agreement requires that the labor organization and its members agree to refrain from picketing, work stoppages, boycotts or other economic interference against the covered employer and that the covered employer maintain a neutral posture with respect to efforts by the labor organization to represent covered employees, allow access to workers and agree to card check neutrality.*

§ 2. Subdivision b of section 6-109 of the administrative code of the city of New York is amended by adding a new paragraph (7) to read as follows:

(7) *Labor Peace Required. Contracting agencies shall require each covered employer subject to the requirements of subparagraph (a) of paragraph (1) of subdivision b of this section to enter into a labor peace agreement with a labor organization that seeks to represent its covered employees for a period of at least five years.*

§ 3. Subdivision b of section 6-134 of the administrative code of the city of New York is amended by adding new paragraphs (14) and (15) to read as follows:

(14) *“Labor organization” has the same meaning as set forth in subdivision (5) of section 152 of title 29 of the United States code.*

(15) *“Labor peace agreement” means an agreement between a covered employer and a labor organization that represents individuals who perform the type(s) of work to be performed on the premises of property improved or developed with financial assistance, where such agreement requires that the labor organization and its members agree to refrain from picketing, work stoppages, boycotts or other economic interference against the covered employer and that the covered employer agree to maintain a neutral posture with respect to efforts by the labor organization to represent its employees, allow access to workers and agree to card check neutrality.*

§ 4. Paragraph (3) of subdivision c of section 6-134 of the administrative code of the city of New York, as added by local law number 37 for the year 2012, is amended to read as follows:

(3) *Financial assistance recipients shall require each covered employer operating on the premises of property improved or developed with financial assistance to enter into a labor peace agreement with a labor organization that seeks to represent its employees.*

(4) The requirements of this section shall apply for the term of the financial assistance or for [ten] 10 years, whichever is longer, from the date of commencement of the project subject to a project agreement or the date the project subject to a project agreement commences operations, whichever is later.

§ 5. This local law does not apply to city service contracts entered into or projects authorized or financial assistance awarded prior to the effective date of this local law. This local law shall not be applied in a manner that interferes with contracts or agreements entered into by the city or a city economic development entity before the effective date of this local law.

§ 6. This local law takes effect on the same date that a local law amending the administrative code of the city of New York, in relation to increasing the living wage and expanding the class of covered employers to conform to executive order number 7 for the year 2014, as proposed in introduction number XX for the year 2017, takes effect.

Referred to the Committee on Contracts.

Res. No. 1781

Resolution urging the New York State Legislature to pass and the Governor to sign a law amending the parental responsibility section of the General Obligations Law, to make parents or custodial guardians responsible of minors possessing a firearm.

By Council Member King.

Whereas, Pursuant to the General Obligations Law, parents and legal guardians can be responsible for the actions of their minor child; and

Whereas, According to the General Obligations Law, parents and legal guardians can be held responsible for the actions of their child if they are older than 10 and less than 18 years old; and

Whereas, However, if the state, Department of Social Services, or a foster parent have custody of a minor, they cannot be held responsible under the law; and

Whereas, Pursuant to the General Obligations Law, parents and legal guardians are held responsible for the “willful, malicious, or unlawful” damage their minor child has caused; and

Whereas, This includes the unlawful damage, defacement, or detriment of public or private property, vandalism, and property theft; and

Whereas, Parents can also be held responsible if their minor child false reports or places a “false bomb”;

Whereas, Parents whose minor child has reported or placed a false bomb can face a civil action in court to recover the funds expended in responding to the report or placement of the “false bomb”; and

Whereas, While the General Obligations Law provides several instances of when parents are held liable for the actions of their minor child, the current law does not include possession of a firearm; and

Whereas, Similarly to the actions currently included in the law, possessing a firearm poses a risk to public safety, the overall public, and to the minor themselves; therefore, be it

Resolved, That the Council of the city of New York urges New York State Legislature to pass and the Governor to sign a law amending the parental responsibility section of the General Obligations Law, to make parents or custodial guardians responsible of minors possessing a firearm.

Referred to the Committee on Public Safety.

Int. No. 1805

By Council Member Koo.

A Local Law to amend the administrative code of the city of New York, in relation to repainting of pavement marking lines.

Be it enacted by the Council as follows:

Section 1. Chapter one of title 19 of the administrative code of the city of New York is amended by adding a new section 19-115.1 to read as follows:

§ 19-115.1 *Pavement markings.* a. *For the purposes of this section, the term “pavement markings” includes, lines and symbols on the roadway that are intended to direct vehicular, pedestrian, and cyclist movement, including but not limited to lines that indicate where lanes are divided, where vehicles may pass other vehicles, where vehicles may change lanes, where vehicles may turn, where pedestrian walkways are located, and where pedestrians must stop for signs and traffic signals.*

b. *Whenever any street is repaved or resurfaced by the department, the department shall ensure that all pavement markings are repainted within one week of the completion of such repavement or reconstruction project.*

§ 2. This local law takes effect immediately.

Referred to the Committee on Transportation.

Int. No. 1806

By Council Member Koo.

A Local Law to amend the administrative code of the city of New York, in relation to improving safety at pedestrian crossings in the city

Be it enacted by the Council as follows:

Section 1. Section 19-180.1 of the administrative code of the city of New York, as amended by local law number 12 for the year 2011 and renumbered by local law number 127 for the year 2013, is amended to read as follows:

§ 19-180.1 *Safety audits of crash locations involving pedestrians* a. *Within one hundred and eighty days of receiving access to New York state department of motor vehicles traffic crash data involving pedestrian injuries or fatalities for the previous calendar year, the department shall:*

1. *Identify the twenty highest crash locations based upon a ranking of the total number of crashes involving pedestrians killed or seriously injured, occurring over a five-year period and selected proportionally by borough based upon the percentage of total crashes involving pedestrians in such borough; and*

2. *Inspect and conduct audits at such locations and, where warranted, make improvements or incorporate improvements into capital projects, such as installation of leading pedestrian interval signals or exclusive pedestrian phase signals at intersections containing pedestrian crossings.*

b. *Within thirty days of completing the inspections and audits required under paragraph 2 of subdivision a of this section, the department shall send a report noting such inspection and audit and summarizing its recommendations and steps to be taken, including a schedule to implement such recommendations, to the council member and community board in whose district the crash location is located.*

c. *If any crash location appears on the department's annual list of twenty highest crash locations involving pedestrians more than once in five consecutive years, such location shall be removed from the annual list and replaced by the location with the next highest number of crashes involving pedestrians located within the same borough as the consecutively appearing location; provided that the department shall continue to monitor such*

crash data and/or make safety improvements at such removed location until such removed location is no longer one of the highest crash locations.

d. For purposes of this section, *the following terms have the following meanings:*

Exclusive pedestrian phase. The term “exclusive pedestrian phase” means a pedestrian control signal at any intersection with crosswalks and where the signal allows pedestrians an exclusive interval at which to completely cross the intersection while vehicular traffic is stopped in all directions.

Leading pedestrian interval. The term “leading pedestrian interval” means a pedestrian control signal that displays a walk indication before a green indication for the parallel direction of vehicular traffic.

Seriously injured. The term “seriously injured” [shall mean] means those injuries categorized as “A” injuries by the New York state department of motor vehicles.

§ 2. Subdivision a of section 19-182 of the administrative code of the city of New York, as amended by local law number 12 for the year 2011, is amended to read as follows:

§ 19-182 Comprehensive study of pedestrian fatalities and serious injuries. a. Every five years, the department shall conduct a comprehensive study of all traffic crashes involving a pedestrian fatality or serious injury for the most recent five 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, *installation of leading pedestrian intervals, installation of exclusive pedestrian phases*, prioritizing locations and/or types of roadways or intersections for safety improvements and making recommendations for improving safety at such locations.

§ 3. This local law takes effect immediately.

Referred to the Committee on Transportation.

Int. No. 1807

By Council Member Lancman.

A Local Law to amend the New York city charter and administrative code of the city of New York, in relation to workers’ compensation insurance data.

Be it enacted by the Council as follows:

Section 1. Section 1301 of the New York city charter is hereby amended to add a new subdivision 5 as follows:

6. *With respect to the collection and reporting of workers’ compensation insurance data, the commissioner shall have the power to collect from other city agencies workers’ compensation insurance data and report such data quarterly to the New York state workers’ compensation board.*

§ 2. Chapter 1 of title 14 of the administrative code of the city of New York is amended by adding a new section 14-170 to read as follows:

§ 14-170 Collection of workers’ compensation insurance. a. *Notwithstanding any inconsistent provision of law, rule or regulation, when an accident or crime involving a serious physical injury occurs at the place of employment of the victim of such accident or crime, to the extent practicable, police officers shall collect workers’ compensation data from the employer of the victim of a crime or an accident. The nature of the accident or crime and the severity of the injury shall also be included with such workers’ compensation data.*

b. *The department shall report workers’ compensation data, including information regarding accidents and crimes collected with such data, to the department of small business services quarterly, pursuant to section 22-906 of this code.*

c. “Workers’ compensation data” shall have the same meaning as in subdivision e of section 22-902 of this code and “physical injury” shall have the same meaning as in subdivision 9 of section 10.00 of the penal law.

§ 3. Title 22 of the administrative code of the city of New York is amended by adding a new chapter 10 to read as follows:

CHAPTER 10
Injured Workers’ Protection Act

§ 22-910 **Short title.** *This chapter shall be known and may be cited as the “Injured Workers’ Protection Act.”*

§ 22-911 **Definitions.** *For purposes of this chapter, the following terms shall be defined as follows:*

- a. “Department” shall mean the department of small business services.
- b. “Employee” shall mean any person who provides services to an employer in return for the payment of direct or indirect monetary wages or profit from such employer, or provides services to an employer for no monetary compensation for the purpose of obtaining employment experience and training from such employer.
- c. “Employer” shall mean any person, partnership, association, corporation or non-profit entity which employs one or more persons, or an employer’s agent, representative or designee.
- d. “Physical injury” shall have the same meaning as in subdivision 9 of section 10.00 of the penal law.
- e. “Workers’ compensation insurance data” shall mean the most recent available data regarding an employer including:
 - i. the name and primary place of business of the employer;
 - ii. the nature of the business of the employer;
 - iii. the employer identification number of the employer;
 - iv. the gross receipts of the employer for the previous calendar year;
 - v. the gross payroll of the employer for the previous calendar year;
 - vi. the name and address of the workers’ compensation insurer;
 - vii. the number of employees of the employer covered by the insurance; and
 - viii. the employer’s New York compensation insurance rating board classification number.

§ 22-912 **Provision of workers’ compensation insurance data by businesses that are licensed by city of New York.** a. *Notwithstanding any inconsistent provision of law, rule or regulation, all applications for a license or renewal of a license issued by the city of New York shall require such employer applying for such license to provide its workers’ compensation data to the agency issuing the license.*

b. *Any agency that receives workers’ compensation data pursuant to this section shall report such data to the department quarterly, pursuant to section 22-906 of this chapter.*

§ 22-913 **Provision of workers’ compensation insurance data by businesses with permits issued by city of New York.** a. *Notwithstanding any inconsistent provision of law, rule or regulation, all applications for a permit or renewal of a permit issued by the city of New York shall require such employer applying for such permit to provide its workers’ compensation data to the agency issuing the permit.*

b. *Any agency that receives workers’ compensation data pursuant to this section shall report such data to the department quarterly, pursuant to section 22-906 of this chapter.*

§ 22-914 **Transmittal of data to the department.** *Workers’ compensation data collected by any agency pursuant to sections 14-155, 22-903, 22-904 and 22-905 of this code and shall report such data to the department pursuant to the following schedule:*

Data collected between January 1 and March 31 shall be reported no later than May 1.

Data collected between April 1 and June 30 shall be reported no later than August 1.

Data collected between July 1 and September 30 shall be reported no later than November 1.

Data collected between October 1 and December 31 shall be reported no later than the following February 1.

§ 20-915 **Transmittal of data to the New York state workers’ compensation board.** *Workers’ compensation data shall be collected by the department from agencies and shall be reported to the New York state workers’ compensation board pursuant to the following schedule:*

Data collected for the period between January 1 and March 31 shall be reported no later than June 1.

Data collected for the period between April 1 and June 30 shall be reported no later than September 1.

Data collected for the period between July 1 and September 30 shall be reported no later than December 1.

Data collected for the period between October 1 and December 31 shall be reported no later than the following March 1.

§ 4. This local law shall take effect one hundred and twenty days after its enactment into law.

Referred to the Committee on Civil Service and Labor.

Int. No. 1808

By Council Member Lancman.

A Local Law to amend the administrative code of the city of New York, in relation to reporting on city contracting with local vendors

Be it enacted by the Council as follows:

Section 1. Title 6 of the administrative code of the city of New York is amended to add a new section 6-142 to read as follows:

§6-142. *Reporting on contracting with New York city and New York state vendors. a. For purposes of this section:*

Agency. The term “agency” means a city, county, borough, or other office, position, 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.

City chief procurement officer. The term “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.

Construction. The term “construction” means construction, reconstruction, demolition, excavation, renovation, alteration, improvement, rehabilitation, or repair of any building, facility, physical structure of any kind.

Industry classification. The term “industry classification” means one of the following classifications: (a) construction; (b) professional services; (c) standard services; and (d) goods.

New York city vendor. The term “New York city vendor” means a vendor whose principal place of business is physically located within the city of New York.

New York state vendor. The term “New York state vendor” means a vendor whose principal place of business is physically located outside the city of New York but within the state of New York.

Professional services. The term “professional services” means services that require specialized skills and the exercise of judgment, including but not limited to accountants, lawyers, doctors, computer programmers and consultants, architectural and engineering services, and construction management services.

Standard services. The term “standard services” means services other than professional services.

b. Not later than October 1 of each year, the city chief procurement officer shall submit to the speaker and publish on the mayor’s office of contract services website a report detailing the city’s contracting with New York city and New York state vendors during the prior fiscal year. Such report shall include the following information, disaggregated by agency:

(1) the number and total dollar value of contracts awarded to New York city vendors, disaggregated by industry classification;

(2) the number and total dollar value of contracts awarded to New York state vendors, disaggregated by industry classification;

(3) the number and total dollar value of contracts awarded, disaggregated by industry classification.

§2. This local law takes effect immediately.

Referred to the Committee on Contracts.

Int. No. 1809

By Council Member Lancman.

A Local Law to amend the administrative code of the city of New York, in relation to the review and inspection of courthouse emergency management plans

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 30 of the administrative code of the city of New York is amended by adding a new section 30-115 to read as follows:

§ 30-115 Review and inspection of courthouse emergency management plans. The commissioner shall conduct an annual review and inspection of courthouse emergency management plans to ensure that each plan is effective and utilizes current procedures and technology. Such plan shall include, but not be limited to, the following information: (a) identification of city personnel responsible for preparing and implementing emergency management plans, including a clear hierarchy and points of contact; (b) a description of the physical layout of courthouses, including the number of floors and areas of egress available for able and disabled individuals; (c) the identification of assembly areas for staff reporting; (d) plans for supervisors and security personnel in the event that a courthouse lockdown is ordered; and (e) a continuity of operations plan in the event that a courthouse's operations are interrupted for a prolonged period of time. The commissioner shall provide the city council in writing with an annual report detailing the emergency and evacuation preparedness of each courthouse throughout New York City no later than January 20th of each year.

§2. This local law takes effect immediately.

Referred to the Committee on Courts and Legal Services.

Int. No. 1810

By Council Member Lancman.

A Local Law to amend the administrative code of the city of New York, in relation to creating online applications for ambulance call reports

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 15 of the administrative code of the city of New York is amended by adding a new section 15-131 to read as follows:

§ 15-131 Online applications for ambulance call reports. The department shall make all components of applications for ambulance call reports, prehospital care reports, or any substantially similar report available for online submission. Nothing in this section shall prevent the department from taking reasonable steps to verify the identity of any person submitting such applications.

§ 2. This local law takes effect 6 months after it becomes law.

Referred to the Committee on Fire and Criminal Justice Services.

Int. No. 1811

By Council Member Lancman.

A Local Law to amend the administrative code of the city of New York, in relation to penalties for leaving the scene of a construction workplace fatality without reporting.

Be it enacted by the Council as follows:

Section 1. Chapter one of title 10 of the administrative code of the city of New York is amended by adding a new section 10-177 to read as follows:

§ 10-177 Penalties for leaving the scene of a construction workplace fatality without reporting. a. This section shall be known and may be cited as the “Construction Workplace Fatality Accountability Act.”

b. As used in this section the following terms shall be defined as follows:

1. “Construction workplace” shall mean a place of work where construction, reconstruction, altering, maintaining, moving, rehabilitating, repairing, renovating or demolition of any building, structure or improvement, or relating to the excavation of or other development or improvement to land is occurring.

2. “Employee” shall mean any “employee” as defined in section 190(2) of the labor law who performs work on a full-time or part-time basis, not including those who are employed by (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; or (iii) the city of New York or any local government, municipality or county or any entity governed by general municipal law section 92 or county law section 207.

3. “Employer” shall mean any “employer” as defined in section 190(3) of the labor law, but not including (i) the United States government; (ii) the state of New York, including any office, department, independent agency, authority, institution, association, society or other body of the state including the legislature and the judiciary; or (iii) the city of New York or any local government, municipality or county or any entity governed by general municipal law section 92 or county law section 207.

4. “Supervisor” shall mean any person who had the authority to direct and control the work performance of other employees of an employer.

5. “Owner” shall mean any person with an ownership interest in an employer, who also works at the workplace of the employer and makes decisions about the operation of the employer.

c. Whenever an accident or an act of violence causes the death of an employee at a construction workplace of the employer, any supervisor or owner who witnessed the accident or act that caused such death who leaves the construction workplace without complying with subdivision e of this section shall be guilty of a class A misdemeanor punishable by a term of imprisonment of not more than one year, a fine of not more than one thousand dollars, or both.

d. In the case of an accident or act of violence that causes the death of an employee when no supervisor or owner witnessed such accident or act, at least one owner or supervisor present at the construction workplace at the time of such accident or act, or who immediately arrives at the construction workplace upon being informed of such accident or act, shall remain at the construction workplace until such owner or supervisor has complied with subdivision e of this section. In such cases, the supervisor or owner with the most direct supervisory power over the employee killed in the construction workplace who does not comply with subdivision e of this section shall be subject to a civil penalty of not more than one thousand dollars.

e. After an employee has been killed in an employer’s construction workplace, any supervisor or owner of such employer required to remain present at such construction workplace pursuant to subdivisions c or d of this section shall be permitted to leave such construction workplace only after such supervisor or owner has been interviewed by the police or been informed by the police such supervisor or owner that continued presence at the construction workplace is no longer necessary.

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

Referred to the Committee on Housing and Buildings.

Int. No. 1812

By Council Member Lancman

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of parks and recreation to charge senior citizens, young adults, active members of the military, veterans and their minor children and persons with disabilities reduced admission fees to recreational facilities

Be it enacted by the Council as follows:

Section 1. Section 18-146 of the administrative code of the city of New York, as added by local law number 18 of the year 2016, is amended to read as follows:

§ 18-146 *Discounted fees. a. For the purposes of this section, the following terms have the following meanings:*

Recreational facility. The term “recreational facility” means any land, building, structure or improvement maintained and operated by the department, including but not limited to existing community recreational centers, museums, zoos, wildlife sanctuaries, botanical gardens and conservation centers.

Veteran. The term “veteran” means a person:

1. Who served in the active military or naval service of the United States; in active duty in a force of any organized state militia in a full-time status; or in the reserve armed forces of the United States in active duty; and

2. Who was released from such service otherwise than by dishonorable discharge.

b. Annual membership and admissions fees for each recreation [center] facility under the jurisdiction of the department shall be reduced for:

[persons] 1. Persons 62 years of age or older[.];

[persons] 2. Persons between 18 and 24 years of age[.];

[veterans] 3. Veterans and active members of the United States military and their minor children; and

[persons] 4. Persons with disabilities.

b. Such reduced fees shall be no greater than 25 percent of the highest annual membership fee or admission fee charged at such recreation center or facility.

§ 2. This local law shall take effect 180 days after it becomes law, except that the department shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

Referred to the Committee on Parks and Recreation.

Int. No. 1813

By Council Member Lancman.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the provision of advance notice of temporary changes to parking restrictions as a result of road repairs

Be it enacted by the Council as follows:

Section 1. Subdivision b of section 19-175.2 of the administrative code of the city of New York, as added by local law number 78 of the year 2009, is amended to read as follows:

b. Before the department makes temporary parking restriction changes to conduct road repairs, it shall post notice, in the affected areas, of the effective date of such restrictions [as soon as practicable]at least 72 hours in advance. Such notice shall state that no notice of violations shall be issued for violations of such temporary parking restrictions and that if an owner's motor vehicle is missing from the affected streets, the motor vehicle

may have been towed and the motor vehicle owner should contact the local police precinct for information about the location of such motor vehicle.

§ 2. This local law takes effect 120 days after it becomes law.

Referred to the Committee on Transportation.

Int. No. 1814

By Council Members Lancman and Torres.

A Local Law to amend the administrative code of the city of New York, in relation to periodic inspections of elevators in public housing

Be it enacted by the Council as follows:

Section 1. Section 28-103.16 of the administrative code of the city of New York is amended to read as follows:

§ 28-103.16 Inspections of existing buildings, structures, signs, service equipment and construction machinery and equipment. In addition to other required inspections, the commissioner may make or require inspections of existing buildings, structures, signs, service equipment installations and construction machinery and equipment to ascertain compliance with the provisions of this code and other laws that are enforced by the department. Such inspections may be made on behalf of the department by officers and employees of the department and other city departments and governmental agencies; and by approved agencies, special inspectors or other persons when the commissioner is satisfied as to their qualifications and reliability, *except that periodic inspections of elevators, pursuant to section 28-304.6.1 of the administrative code and Appendix K of the New York city building code, shall only be performed by the department.* The commissioner may accept inspection and test reports from persons authorized by this code or by the commissioner to perform such inspections. Such reports shall be filed with the department.

Referred to the Committee on Public Housing.

Int. No. 1815

By Council Member Lander

A Local Law to amend the administrative code of the city of New York, in relation to regulating covenants not to compete for freelance workers

Be it enacted by the Council as follows:

Section 1. Declaration of legislative intent and findings. The council finds and declares that covenants not to compete are increasingly becoming common in contracts between hiring parties and freelance workers. Restrictive covenants not to compete are in some ways antithetical to the freelance work employment model. The practice of requiring freelance workers to enter into covenants not to compete in the fashion modelling industry is especially concerning to the council and often represents unequal bargaining power between freelance fashion models and hiring parties such as model management agencies. The council, therefore, finds it necessary and appropriate to create a requirement that hiring parties wishing to require freelance workers to agree to a covenant not to compete must guarantee a bi-weekly or monthly payment of a reasonable monetary sum that is mutually acceptable to both the hiring party and the freelance worker.

§2. Chapter 5 of title 22 of the administrative code of the city of New York is amended by adding a new section 22-510 to read as follows:

§ 22-510 *Covenants not to compete. a. Definitions. For the purposes of this section, the following terms have the following meanings:*

Covenant not to compete. The term “covenant not to compete” means an agreement, or a clause contained in an agreement, which is entered into between a hiring party and a freelance worker after the effective date of the local law that added this section, and which restricts such freelance worker from performing work for another party not subject to such agreement for a specified period of time or in a specified geographical area, that is similar to such freelance worker’s work for the hiring party.

Freelance worker. The term “freelance worker” means any natural person or any organization composed of no more than one natural person, whether or not incorporated or employing a trade name, which is hired or retained as an independent contractor by a hiring party to provide services in exchange for compensation. This term does not include:

1. Any person who, pursuant to the contract at issue, is a sales representative as defined in section 191-a of the labor law;

2. Any person engaged in the practice of law pursuant to the contract at issue; 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 who is not under any order of any court suspending, enjoining, restraining, disbaring or otherwise restricting such person in the practice of law;

3. Any person who is a licensed medical professional; and

4. Any individual, partnership, corporation or other legal entity admitted to membership in the Financial Industry Regulatory Authority.

Hiring party. The term “hiring party” means any person who contracts with a freelance worker to provide any service, other than (i) the United States government, (ii) the state of New York, including any office, department, agency, authority or other body of the state including the legislature and the judiciary, (iii) the city, including any office, department, agency or other body of the city, (iv) any other local government, municipality or county or (v) any foreign government.

b. Prohibition; freelance workers. 1. No hiring party shall enter into a covenant not to compete with a freelance worker unless such covenant also contains a requirement for the hiring party to provide payment of a reasonable and mutually agreed upon sum to the freelance worker on either a bi-weekly or monthly basis for the duration of time during which the covenant not to compete is in effect.

2. A failure on the part of the hiring party to provide payment of the mutually agreed upon sum to the freelance worker in accordance with the terms of the covenant not to compete, will immediately render such covenant null and void.

c. Right of action. Except as otherwise provided by law, any freelance worker claiming to be aggrieved by a violation of this section may bring an action in any court of competent jurisdiction seeking a declaratory judgment that the covenant not to compete at issue is void. The court, in its discretion, may award the prevailing party reasonable attorney’s fees.

d. Damages. A plaintiff who prevails on a claim alleging a violation of paragraph 1 of subdivision b of this section shall be awarded statutory damages of \$1,000.

e. Any person who violates paragraph 1 of subdivision b of this section is subject to a civil penalty of \$500 per violation. The director of labor standards shall enforce the requirements of this section pursuant to rules promulgated by such director.

f. Civil action for pattern or practice of violations. Where reasonable cause exists to believe that a hiring party is engaged in a pattern or practice of violations of this section, the corporation counsel may commence a civil action on behalf of the city in a court of competent jurisdiction. The trier of fact may impose a civil penalty of not more than \$25,000 for a finding that a hiring party has engaged in a pattern or practice of violations of this section. Any civil penalty so recovered shall be paid into the general fund of the city.

§ 2. This local law takes effect 120 days after it becomes law, except that the director of labor standards shall take any actions necessary for the implementation of this local law, including the promulgation of rules relating to procedures and penalties necessary to effectuate this section, before such date.

Referred to the Committee on Civil Service and Labor.

Int. No. 1816

By Council Member Lander.

A Local Law to amend the administrative code of the city of New York, in relation to fossil fuel.

Be it enacted by the Council as follows:

Section 1. Chapter 3 of title 6 of the administrative code of the city of New York is amended by adding a new subchapter 8 to read as follows:

Subchapter 8: Fossil Fuel

§6-318. Phase out of procurement of fossil fuel.

a. Within ninety days of the effective date of the local law that added this section, the director of citywide environmental purchasing shall develop a plan to phase out the city's procurement of fossil fuel. Such plan shall include a detailed schedule charting the planned reduction of the purchase of fossil fuel and increase in the purchase of alternative fuel(s) such that, by January 1, 2024, the city shall no longer purchase fossil fuel.

b. The director of citywide environmental purchasing shall publish such plan on the mayor's office of contract services website.

c. Not later than October first of each year, the director of citywide environmental purchasing shall submit to the mayor and the speaker of the city council, and publish on the mayor's office of contract services website, a report detailing the city's efforts during the preceding fiscal year to implement such plan. Such report shall include the total volume and dollar value of the city's procurement of fuel, including fossil fuels and alternative fuels, categorized by specific fuel type.

§2. This local law shall take effect ninety days after its enactment into law, provided, however, that city agencies, officers and employees shall take such actions as are necessary for its implementation prior to such effective date.

Referred to the Committee on Contracts.

Int. No. 1817

By Council Members Lander, Cumbo and Van Bramer.

A Local Law to amend the New York city charter, in relation to creating a historic and cultural marker program

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 20-d to read as follows:

§ 20-d. Historic and cultural marker program. a. For the purposes of this section, the term "marker" shall mean a visual indicator, such as a sign or plaque, to commemorate a person, place, or event.

b. Not later than December 1, 2018, the mayor shall create a historic and cultural marker program. The mayor shall determine which agency shall be responsible for developing, implementing, and overseeing the program. The program would:

1. Commemorate important people, places and events significant to New York City's history and identity through historic and cultural markers;

2. Provide interpretive, interactive, and online materials to educate New York City residents and visitors about a diverse range of cultural and historic sites; and

3. Provide a searchable online database on an official website of the city accessible to the public that shall include a list of all historic and cultural markers.

c. The mayor or, as designated by the mayor, an office of the mayor or any department the head of which is appointed by the mayor shall create a process by which a member of the public may submit a proposal for a historic or cultural marker.

2. This local law takes effect immediately after it becomes law.

Referred to the Committee on Cultural Affairs, Libraries and International Intergroup Relations.

Int. No. 1818

By Council Members Lander, Rosenthal, Williams and Johnson.

A Local Law to amend the administrative code of the city of New York, in relation to expanding the living wage law to cover additional human services workers and providing the department of consumer affairs additional enforcement authority over the living wage laws

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, is amended to read as follows:

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

(1) "City" means the City of New York.

(2) "Entity" or "Person" means any individual, sole proprietorship, partnership, association, joint venture, limited liability company, corporation or any other form of doing business.

(3) "Commissioner" means the commissioner of consumer affairs ["Homecare Services" means the provision of homecare services under the city's Medicaid Personal Care/Home Attendant or Housekeeping Programs, including but not limited to the In-Home Services for the Elderly Programs administered by the Department for the Aging].

(4) "Building Services" means work performing any custodial, janitorial, groundskeeping or security guard services, including but not limited to, washing and waxing floors, cleaning windows, cleaning of curtains, rugs, or drapes, and disinfecting and exterminating services.

(5) "Human Services" means social services including but not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs ["Day Care Services" means provision of day care services through the city's center-based day care program administered under contract with the city's administration for children's services. No other day care programs shall be covered, including family-based day care programs administered by city-contracted day care centers].

(6) ["Head Start Services" means provision of head start services through the city's center-based head start program administered under contract with the city's administration for children's services. No other head start programs shall be covered.

(7) "Services to Persons with Cerebral Palsy" means provision of services which enable persons with cerebral palsy and related disabilities to lead independent and productive lives through an agency that provides health care, education, employment, housing and technology resources to such persons under contract with the city or the department of education.

(8) "Food Services" means the work preparing and/or providing food. Such services shall include, but not be limited to, those as performed by workers employed under the titles as described in the federal dictionary of occupational titles for cook, kitchen helper, cafeteria attendant, and counter attendant. Any contracting agency letting a food services contract under which workers will be employed who do not fall within the foregoing

definitions must request that the comptroller establish classifications and prevailing wage rates for such workers.

[(9)] (7) “Temporary Services” means the provision of services pursuant to a contract with a temporary services, staffing or employment agency or other similar entity where the workers performing the services are not employees of the contracting agency. Such services shall include those performed by workers employed under the titles as described in the federal dictionary of occupational titles for secretary, word processing machine operator, data entry clerk, file clerk, and general clerk. Any contracting agency letting a temporary services contract under which workers will be employed who do not fall within the foregoing definitions must request the comptroller to establish classifications and prevailing wage rates for such workers.

[(10)] (8) “City Service Contract” means any written agreement between any entity and a contracting agency whereby a contracting agency is committed to expend or does expend funds and the principle purpose of such agreement is to provide [homecare] *human* services, building services, [day care services, head start services, services to persons with cerebral palsy,] food services or temporary services where the value of the agreement is greater than the city’s small purchases limit pursuant to section 314 of the [city] charter. This definition shall not include contracts with not-for-profit organizations, provided however, that this exception shall not apply to not-for-profit organizations providing [homecare, headstart, day care and services to persons with cerebral palsy] *human services*. This definition shall also not include contracts awarded pursuant to the emergency procurement procedure as set forth in section 315 of the [city] charter.

[(11)] (9) “City Service Contractor” means any entity [and/or] *or* person that enters into a city service contract with a contracting agency. An entity shall be deemed a city service contractor for the duration of the city service contract that it receives or performs.

[(12)] (10) “City Service Subcontractor” means any entity [and/or] *or* person, including, but not limited to, a temporary services, staffing or employment agency or other similar entity, that is engaged by a city service contractor to assist in performing any of the services to be rendered pursuant to a city service contract. *This definition includes any entity that is engaged by a city service contractor to provide building services, where such city service contractor renders human services on its premises in performance of the city service contract.* This definition does not include any contractor or subcontractor that merely provides goods relating to a city service contract or that provides services of a general nature (such as relating to general office operations) to a city service contractor which do not relate directly to performing the services to be rendered pursuant to the city service contract. An entity shall be deemed a city service *subcontractor* for the duration of the period during which it assists the city service [subcontractor] *contractor* in performing the city service contract.

[(13)] (11) “Contracting Agency” means the city, a city agency, the city council, a county, a borough, or other office, position, administration, department, division, bureau, board, commission, corporation, or an institution or agency of government, the expenses of which are paid in whole or in part from the city treasury or the department of education.

[(14)] (12) “Covered Employer” means a city service contractor or a city service subcontractor.

[(15)] (13) “Employee” means any person who performs work on a full-time, part-time, temporary, or seasonal basis and includes employees, independent contractors, and contingent or contracted workers, including persons made available to work through the services of a temporary services, staffing or employment agency or similar entity. For purposes of this definition and this section, “employ” means to maintain an employee, as defined in this section. For purposes of counting numbers of employees or employed persons when required by this section, full-time, part-time, temporary, or seasonal employees shall be counted as employees. Where an employer’s work force fluctuates seasonally, it shall be deemed to employ the highest number of employees that it maintains for any three month period. [However, in the case of city service contractors and city service subcontractors that provide day care services, independent contractors that are family-based day care providers shall not be deemed employees of the agencies and shall not be subject to the requirements of this section.]

[(16)] (14) “Covered Employee” means an employee entitled to be paid the living wage or the prevailing wage and/or health benefits as provided in subdivision b of this section.

[(17)] (15) “Not-for-Profit Organization” means a corporation or entity having tax exempt status under section 501(c)(3) of the United States internal revenue code [and] *or* incorporated *as a not-for-profit corporation* under the laws of the state [not-for-profit law] *of its incorporation*.

[(18)] (16) “Prevailing Wage and Supplements” means the rate of wage and supplemental benefits per hour 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 234 of the [New York state] labor law or, for titles not specifically enumerated in or covered by that law, determined by the comptroller at the request of a contracting agency or a covered employer in accordance with the procedures of section 234 of the [New York state] labor law. As provided under section 231 of the [New York state] labor law, the obligation of an employer to pay prevailing supplements may be discharged by furnishing any equivalent combinations of fringe benefits or by making equivalent or differential payments in cash under rules and regulations established by the comptroller.

[(19)] (17) “Living Wage” has the meaning provided in paragraph 2 of subdivision b of this section.

[(20)] (18) “Health Benefits” has the meaning provided in *subparagraph a* of paragraph 3 of subdivision b of this section.

[(21)] (19) “Health Benefits Supplement Rate” has the meaning provided in *subparagraph b* of paragraph 3 of subdivision b of this section.

§ 2. Paragraph (1) of subdivision b of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, is amended to read as follows:

(1) Coverage. (a) A city service contractor or city service subcontractor that provides [homecare services, day care services, head start services or services to persons with cerebral palsy] *human services* must pay its covered employees that directly render such services in performance of the city service contract or subcontract no less than the living wage and must either provide its employees health benefits or must supplement their hourly wage rate by an amount no less than the health benefits supplement rate. This requirement applies for each hour that the employee works performing the city service contract or subcontract.

(b) A city service contractor or city service subcontractor that provides building services, food services or temporary services must pay its employees that are engaged in performing the city service contract or subcontract no less than the living wage or the prevailing wage, whichever is greater. *A city service subcontractor that provides building services to a city service contractor rendering human services on its premises pursuant to a city service contract must pay its employees that are engaged in performing the city service subcontract no less than the living wage.* Where the living wage is greater than the prevailing wage, the city service contractor or city service subcontractor must either provide its employees health benefits or must supplement their hourly wage rate by an amount no less than the health benefits supplement rate. Where the prevailing wage is greater than the living wage, the city service contractor or city service subcontractor must provide its employees the prevailing wage and supplements as provided in [paragraph 18 of] subdivision a of this section. These requirements apply for each hour that the employee works performing the city service contract or subcontract.

§ 3. Clause (v) of subparagraph (a) of paragraph (2) of subdivision c of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, is amended to read as follows:

(v) An acknowledgement that a finding by [a contracting agency] *the commissioner* that the applicant has violated the requirements of this section may result in the cancellation or rescission of the city service contract.

§ 4. Subparagraph (e) of paragraph (2) of subdivision c of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, is amended to read as follows:

(e) A city service contractor providing [homecare, day care, head start or services to persons with cerebral palsy] *human services* may comply with the certification and other reporting requirements of this paragraph by submitting, as part of the contract proposal/contract and requests for payment categorical information about the wages, benefits and job classifications of covered employees of the city service contractor, and of any city service subcontractors, which shall be the substantial equivalent of the information required in clause [iii] (iii) of subparagraph [(2)(a)] (a) of paragraph (2) of [this paragraph] *subdivision c of this section.*

§ 5. Subparagraph (b) of paragraph (1) of subdivision d of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, is amended to read as follows:

(b) The comptroller and the mayor shall ensure that the information set forth in the certifications (including annual updated certifications and alternatives to certifications authorized for city service contractors providing [homecare, day care, or head start services or services to persons with cerebral palsy] *human services*) required to be submitted under paragraph 2 of subdivision c of this section is integrated into and contained in the city’s contracting and financial management database established pursuant to section 6-116.2

[of the administrative code]. Such information shall to the extent permitted by law be made available to the public. Provided, however, that the comptroller and the mayor may agree to restrict from disclosure to the public any information from the certifications required under paragraph 2 of subdivision c of this section that is of a personal nature.

§ 6. Subparagraph (a) of paragraph (2) of subdivision d of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, is amended to read as follows:

(a) Contracting agencies shall comply with [and enforce] the requirements of this section. The requirements of this section shall be a term and condition of any city service contract. No contracting agency may expend city funds in connection with any city service contract that does not comply with the requirements of this section.

§ 7. Clause (iv) of subparagraph (b) of paragraph (2) of subdivision d of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, is amended to read as follows:

(iv) A provision providing that: (a) Failure to comply with the requirements of this section may constitute a material breach by the city service contractor of the terms of the city service contract; (b) Such failure shall be determined by the [contracting agency] *commissioner*; and (c) If, within [thirty] 30 days after or pursuant to the terms of the city service contract, whichever is longer, the city service contractor and/or subcontractor receives written notice of such a breach, the city service contractor fails to cure such breach, the city shall have the right to pursue any rights or remedies available under the terms of the city service contract or under applicable law, including termination of the contract.

§ 8. Subparagraphs (a), (c), (d), (f), (g) and (h) of paragraph (1) of subdivision e of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, are amended to read as follows:

(a) Whenever the comptroller has reason to believe that a covered employer or other person has not complied with the requirements of this section, or upon a verified complaint in writing from a covered employee, a former employee, an employee's representative, or a labor [union] *organization* with an interest in the city service contract at issue, the comptroller shall conduct an investigation to determine the facts relating thereto. In conducting such investigation, the comptroller shall have the same investigatory, hearing, and other powers as are conferred on the comptroller by sections 234 and 235 of the [state] labor law. At the start of such investigation, the comptroller may, in a manner consistent with the withholding procedures established by section 235.2 of the [state] labor law, instruct or, in the case of [homecare services, day care services, head start services or services to persons with cerebral palsy] *human services*, advise the relevant contracting agency to withhold any payment due the covered employer in order to safeguard the rights of the covered employees. Provided, however, that in the case of city service contractors providing *human services* [to persons with cerebral palsy, day care or head start services], no such withholding of payment may be ordered until such time as the comptroller or [contracting agency] *the commissioner*, as applicable, has issued an order, determination or other disposition finding a violation of this section and the city service contractor has failed to cure the violation in a timely fashion. Based upon such investigation, hearing, and findings, the comptroller shall report the results of such investigation and hearing to the [contracting agency] *commissioner*, who shall issue such order, determination or other disposition. Such disposition may:

(i) Direct payment of wages and/or the monetary equivalent of benefits wrongly denied, including interest from the date of the underpayment to the [worker] *covered employee*, based on the rate of interest per year 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 the filing or disclosure of any records that were not filed or made available to the public as required by this section;

(iii) 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;

(iv) Direct payment of a further sum as a civil penalty in an amount not exceeding [twenty-five] 25 percent of the total amount found to be due in violation of this section;

(v) Direct payment of the sums withheld at the commencement of the investigation and the interest that has accrued thereon to the covered employer; and

(vi) Declare a finding of non-responsibility and bar the covered employer from receiving city service contracts from the contracting agency for a prescribed period of time.

In assessing an appropriate remedy, [a contracting agency] *the commissioner* shall give due consideration to the size of the employer's business, the employer's good faith, the gravity of the violation, the history of previous violations and the failure to comply with record-keeping, reporting, anti-retaliation or other non-wage requirements. *The commissioner may conduct an inquiry related to the results of the investigation conducted by the comptroller pursuant to this subparagraph, if necessary, in assessing an appropriate remedy.* Any civil penalty shall be deposited in the city general revenue fund.

(c) Before issuing an order, determination or any other disposition, the comptroller or [contracting agency] *the commissioner*, as applicable, shall give notice thereof together with a copy of the complaint, or a statement of the facts disclosed upon investigation, which notice shall be served personally or by mail on any person or covered employer affected thereby. The comptroller or [contracting agency] *the commissioner*, as applicable, may negotiate an agreed upon stipulation of settlement or refer the matter to the office of administrative trials and hearings for a hearing and disposition. Such person or covered employer shall be notified of a hearing date by the office of administrative trials and hearings and shall have the opportunity to be heard in respect to such matters.

(d) In an investigation conducted under the provisions of this section, the inquiry of the comptroller or [contracting agency] *the commissioner*, 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.

(f) When a final determination has been made in favor of a covered employee or other person and the person found violating this section has failed to comply with the payment or other terms of the remedial order of the comptroller or [contracting agency] *the commissioner*, as applicable, and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the comptroller or [contracting agency] *the commissioner*, as applicable, shall file a copy of such order containing the amount found to be due with the city 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 comptroller or [contracting agency] *the commissioner*, 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.

(h) The comptroller or [any contracting agency] *the commissioner* shall be authorized to contract with non-governmental agencies to investigate possible violations of this section. Where a covered employer is found to have violated the requirements of this section, the covered employer shall be liable to the city for costs incurred in investigating and prosecuting the violation.

§ 9. Paragraph (1) of subdivision f of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, is amended to read as follows:

(1) Except where expressly provided otherwise in this section, the requirements of this section shall apply to city service contracts entered into after the effective date of this section, and shall not apply to any existing city service contract entered into prior to that date. Where a city service contract is renewed or extended after the effective date of this section, such renewal or extension shall be deemed new city service contracts and shall trigger coverage under this section if the terms of the renewed or extended city service contract[,] otherwise meet the requirements for coverage under this section. [However, city service contractors and city service subcontractors that provide services to persons with cerebral palsy, day care services or head start services shall be subject to the requirements of this section only upon the award or renewal of city service contracts after the effective date of this section. City service contractors and city service subcontractors that provide homecare services shall be subject to the requirements of this section immediately upon the effective date of this section.]

§ 10. Paragraph (3) of subdivision g of section 6-134 of the administrative code of the city of New York, as added by local law number 37 for the year 2012, is amended to read as follows:

(3) 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 employer, and the failure to comply with record-keeping, notice, reporting, or other non-wage requirements. *The mayor, or the mayor's designee, may conduct an inquiry related to the results of the investigation conducted by the comptroller pursuant to subdivision g of*

this section, if necessary, in assessing an appropriate remedy. Any civil penalty shall be deposited in the city general fund.

§ 11. This local law does not apply to city service contracts entered into or renewed prior to the effective date of this local law. This local law shall not be applied in a manner that interferes with contracts or agreements entered into by the city before the effective date of this local law.

§ 12. This local law takes effect 90 days after it becomes law.

Referred to the Committee on Contracts.

Int. No. 1819

By Council Member Levin.

A Local Law to amend the administrative code of the city of New York, in relation to the inclusion of accrued safe and sick time hours earned by employees in their wage statements

Be it enacted by the Council as follows:

Section 1. Chapter 8 of title 20 of the administrative code of the city of New York, as added by local law 46 of 2013, is amended to add a new section 20-925 as follows:

§ 20-925 *Wage statements.* An employer shall provide an employee with written or electronic notice that sets forth the amount of paid safe/sick time accrued, or paid time off an employer provides in lieu of safe/sick time, for use on either the employee's itemized wage statement described in section 195 of the labor law, or in a separate writing or electronic notice provided on the pay date with the employee's payment of wages. If an employer provides unlimited paid safe/sick time or unlimited paid time off to an employee, the employer may satisfy the requirements of this section by indicating on the notice or the employee's itemized wage statement "unlimited."

§ 2. This local law takes effect 120 days after it becomes law.

Referred to the Committee on Civil Service and Labor.

Int. No. 1820

By Council Member Levin

A Local Law in relation to a study and plan relating to community choice aggregation programs

Be it enacted by the Council as follows:

Section 1. a. By March 1, 2019, the department of environmental protection, in consultation with any other relevant agencies or offices, shall conduct, submit electronically to the mayor and the speaker of the council and make publicly available online a study determining the feasibility of implementing in the city one or more community choice aggregation opt-out programs, as described in the order issued by the New York state public service commission on April 20, 2016, relating to such programs. Such study shall include, at a minimum, analyses of potential economic and environmental impacts of implementing one or more such programs in the city and regulatory barriers thereto and shall indicate whether such department recommends implementing such programs.

b. If such department determines that implementing one or more such programs would be feasible and such department recommends implementing such programs, then such department, in consultation with any other relevant agencies or offices, shall, by March 1, 2020, develop, electronically submit to the mayor and the

speaker of the council and make publicly available online a plan for implementing one or more such programs in a manner consistent with the findings of such study.

§ 2. This local law takes effect immediately.

Referred to the Committee on Environmental Protection.

Int. No. 1821

By Council Member Levin

A Local Law in relation to requiring the department of transportation to conduct a feasibility study and, if appropriate, pilot project on the use of cool pavement

Be it enacted by the Council as follows:

Section 1. Cool pavement feasibility study and pilot. a. Definitions. For purposes of this section, the term “cool pavement” means porous, permeable, light-colored or other pavement and pavement coatings designed to reduce pavement temperatures and ambient air temperatures.

b. The department of transportation shall study the feasibility of using cool pavement on city streets. As part of such study, the department shall assess the range of options for cool pavement and the technical feasibility, temperature and other environmental impacts and all anticipated costs of such options. The department shall post on its website and submit to the mayor and the council a report on the results of the study no later than one year after this local law takes effect.

c. If the department deems one or more options for cool pavement feasible, the department shall undertake a one-year pilot program to implement such option or options in one or more locations.

d. If the department undertakes a pilot program pursuant to subdivision c of this section, the department shall post on its website and submit to the mayor and the council a report on the results no later than 180 days after the pilot concludes.

§ 2. This local law takes effect immediately.

Referred to the Committee on Transportation.

Int. No. 1822

By Council Members Levine and Treyger.

A Local Law in relation to establishing a bullying prevention task force

Be it enacted by the Council as follows:

Section 1. Bullying prevention task force. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Bullying. The term “bullying” means the creation of a hostile environment by conduct or by threats, intimidation or abuse, whether verbal or nonverbal, including cyberbullying, that include, but are not limited to, conduct or threats, intimidation or abuse based on a person’s actual or perceived race, color, weight, national origin, ethnic group, religion, religious practice, disability, sexual orientation, gender or sex, and that:

1. Has or would have the effect of unreasonably and substantially interfering with a student’s educational performance, opportunities or benefits, or mental, emotional or physical well-being;

2. Reasonably causes or would reasonably be expected to cause a student to fear for such student’s physical safety;

3. Reasonably causes or would reasonably be expected to cause physical injury or emotional harm to a student; or

4. Creates or would foreseeably create a risk of substantial disruption within the school environment, even if it occurs off school property, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property.

Cyberbullying. The term “cyberbullying” means bullying or harassment that occurs through any form of electronic communication.

Department. The term “department” means the department of education.

School. The term “school” means a school of the city school district of the city of New York that contains any combination of grades from and including pre-kindergarten through grade 12.

b. There shall be a bullying prevention task force consisting of at least 13 members as follows:

1. The chancellor of the city school district of the city of New York, or the chancellor’s designee, who shall serve as chair;

2. The chairperson of the city commission on human rights, or the chairperson’s designee;

3. The commissioner of health and mental hygiene, or the commissioner’s designee;

4. The commissioner of the police department, or the commissioner’s designee;

5. At least five members appointed by the mayor, including school administrators, teachers, guidance counselors or other appropriate department employees, and experts in conflict resolution, bullying prevention, mental health, school safety or education; and

6. At least four members appointed by the speaker of the council, including school administrators, teachers, guidance counselors or other appropriate department employees, and experts in conflict resolution, bullying prevention, mental health, school safety or education.

c. Each member of the task force shall serve without compensation for a term of 12 months, to commence after the final member of the task force is appointed. All members shall be appointed within 60 days after the effective date of this local law.

d. No appointed member of the task force shall be removed except for cause by the appointing authority. In the event of a vacancy on the task force during the term of an appointed member, a successor shall be selected in the same manner as the original appointment to serve the balance of the unexpired term.

e. The ex officio members of the task force may designate a representative who shall be counted as a member for the purpose of determining the existence of a quorum and who may vote on behalf of such member, provided that such representative is an officer or employee from the same agency as the delegating member. The designation of a representative shall be made by a written notice of the ex officio member served upon the chairperson of the task force prior to the designee participating in any meeting of the task force, but such designation may be rescinded or revised by the member at any time. The ex officio members are the chancellor of the city school district of the city of New York, the chairperson of the city commission on human rights, the commissioner of health and mental hygiene and the commissioner of the police department.

f. The task force shall meet at least quarterly and shall hold at least two public meetings prior to submission of the plan required pursuant to subdivision h of this section to solicit public comment on preventing bullying in schools.

g. The mayor may designate one or more agencies to provide staffing and other administrative support to the task force.

h. No later than 12 months after the final member of the task force is appointed, the task force shall submit to the mayor and the speaker of the council a plan to prevent and address bullying in schools. In developing such plan, the task force shall consider the following:

1. Data and reports of the department related to bullying in schools, including any trends in the types of reported incidents of bullying;

2. Existing department policies, guidelines and resources related to bullying prevention;

3. Existing department methods and procedures for reporting and responding to bullying;

4. Existing department training programs to prevent bullying and to help school employees identify and respond to bullying; and

5. The level of coordination among appropriate city, state and federal agencies and other relevant organizations with regards to efforts to prevent and address bullying in schools.

i. The bullying prevention task force shall dissolve upon submission of the plan required pursuant to subdivision h of this section.

§ 2. This local law takes effect immediately.

Referred to the Committee on Education.

Int. No. 1823

By Council Member Maisel.

A Local Law to amend the administrative code of the city of New York, in relation to towing of motor vehicles

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 14 of the administrative code of the city of New York is amended by adding a new section 14-171 to read as follows:

§ 14-171 *Towing of motor vehicles. No later than 30 days after receiving a complaint about a motor vehicle parked on a public street without a license plate or a registration sticker, the police department shall tow or cause to be towed such motor vehicle.*

§ 2. This local law takes effect immediately.

Referred to the Committee on Public Safety.

Int. No. 1824

By Council Member Maisel.

A Local Law in relation to creating an interagency task force on removing parked vehicles from public streets

Be it enacted by the Council as follows:

Section 1. Vehicle removal task force. a. The department shall establish an interagency task force to examine the city's current system of removing from city streets vehicles that are abandoned or parked without license plates or proper registration. Such task force shall develop recommendations to improve existing removal practices in response to complaints from local residents. Such recommendations shall include, but not be limited to, the creation of rules and proposals for new legislation regarding removing vehicles from public streets.

b. Such task force shall consist of the commissioner of transportation, the director of city planning, the commissioner of sanitation, and the police commissioner, or the respective designee of such commissioner or chair. The mayor shall appoint at least two additional members.

c. The task force shall invite representatives from the New York state department of motor vehicles, the New York state department of transportation, and representatives of any other relevant state agency or state elected official, as identified by the task force, to participate in the development of the task force report pursuant to subdivision f of this section.

d. Such task force shall serve for a term of one year. Any vacancy shall be filled in the same manner as the original appointment.

e. All members of such task force shall serve without compensation, except that each member shall be allowed actual and necessary expenses to be audited in the same manner as other city expenses.

f. Such task force shall meet at least five times and shall convene a public hearing in each of the five boroughs. The commissioner of transportation shall serve as the chair of such task force and shall convene the first meeting of such task force within 90 days after the effective date of the local law that added this section.

Such task force shall issue and submit a report of its findings and recommendations to the mayor and the speaker of the city council no later than 12 months after the effective date of the local law that added this section.

g. The task force shall terminate upon the issuance of its final report.

§ 2. This local law takes effect immediately.

Referred to the Committee on Transportation.

Int. No. 1825

By Council Member Matteo.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of environmental protection to post information online regarding scheduled and requested infrastructure services

Be it enacted by the Council as follows:

Section 1. Section 24-503 of the administrative code of the city of New York is amended by adding a new subdivision g to read as follows:

g. The department of environmental protection shall post on its website certain information relating to scheduled and requested infrastructure services. The department shall update such information at least monthly and shall, at a minimum, include the following:

- 1. Scheduled and requested services relating to infrastructure under the department's jurisdiction, including inspection, maintenance, repair, installation and removal of catch basins and fire hydrants; water quality testing; sinkhole repair; and ponding condition remediation;*
- 2. The date and location of each upcoming service by the department; and*
- 3. The status of requests relating to such services. Such status information shall include the date of the request, the location of the requested service, the type of service requested, any determination made by the department regarding such request and any completed or scheduled service that addresses the request.*

§ 2. This local law takes effect 180 days after it becomes law.

Referred to the Committee on Environmental Protection.

Int. No. 1826

By Council Member Matteo.

A Local Law to amend the administrative code of the city of New York, in relation to requiring monthly reports on scheduled construction work on capital projects

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 5 of the administrative code of the city of New York is amended to add a new section 5-108 to read as follows:

§5-108. Monthly reports on capital projects. a. Definitions. As used in this section, the following terms have the following meanings:

Budget agency. The term "budget agency" means the agency from whose budget the funds for a capital project have been appropriated.

Construction phase. The term "construction phase" means the period of time between the commencement of the performance of work by the contractor as defined in the contract and when such work has reached substantial completion.

Managing agency. The term "managing agency" means the agency that is responsible for the functions and operations related to a capital project.

b. Every managing agency shall prepare a monthly report on the status of all capital projects that are or will be in the construction phase within the reporting period. Such report shall be disaggregated by project identification number and budget agency and shall include:

1. a schedule of work for the ensuing three months including the location of planned work by borough, community district and intersection; a description of the planned work; and the date or dates on which the work is scheduled; and

2. the status of all work included in the prior six reports required by paragraph one of this subdivision including the location of completed work; a description of the work completed; the date or dates on which the work was conducted; and, where applicable, an explanation why any work was not conducted or completed as scheduled.

c. The head of each managing agency shall submit the report required by subdivision b to the mayor, or an office or agency designated by the mayor. The mayor, or the office or agency designated by the mayor, shall compile the reports of the managing agencies into a citywide report. The citywide report shall be reviewed to promote coordination between managing agencies and to ensure that work on capital projects is being scheduled and conducted in an efficient and effective manner.

d. The citywide report prepared by the mayor, or the office or agency designated by the mayor, shall be submitted to the speaker of the council, any utility providing electrical or gas service within the city and any entity with a franchise from the city to build and maintain subsurface electrical conduit and manhole infrastructure, and shall also be posted on the city's website, in a non-proprietary format that permits automated processing capable of being downloaded in bulk.

§2. This local law takes effect 120 days after it becomes law.

Referred to the Committee on Finance.

Int. No. 1827

By Council Member Matteo.

A Local Law to amend the administrative code of the city of New York, in relation to the undertaking of surveys before planting trees

Be it enacted by the Council as follows:

Section 1. Section 18-103 of the administrative code of the city of New York is amended to read as follows:

§ 18-103 Trees and vegetation; definitions. Whenever the word "street" or the plural thereof occurs in sections 18-104, 18-105, [and] 18-106 and 18-143 of this title, it shall be deemed to include all that is included by the terms street, avenue, road, alley, lane, highway, boulevard, concourse, public square, and public place, or the plurals thereof respectively; the word "tree" or the plural thereof shall be deemed to include all forms of plants having permanent woody self-supporting trunks; the word "vegetation" shall be deemed to include plants collectively of whatever name or nature not included under the term "tree".

§ 2. Chapter 1 of title 18 of the administrative code of the city of New York is amended by adding a new section 18-143 to read as follows:

§ 18-143 Tree planting survey. *Before the commencement of planting a tree on any street or sidewalk under the jurisdiction of the department, the department shall conduct a survey of the area within a 10-foot radius of the proposed tree planting site to determine whether planting the tree would interfere with the ordinary usage of the street or sidewalk, or injure or impair any sewer, drain, water pipe or other infrastructure. If the results of such survey show that planting a tree at a particular site would cause*

substantial interference with, injury to or impairment of a street, sidewalk or infrastructure, the department shall not plant a tree at such site. The results of any such survey shall be posted on the department's website.

§ 3. This local law takes effect 180 days after it becomes law, except that the commissioner may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

Referred to the Committee on Parks and Recreation.

Int. No. 1828

By Council Member Matteo.

A Local Law to amend the administrative code of the city of New York, in relation to delayed repairs to sidewalks damaged by city-owned trees

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 18-155 to read as follows:

§ 18-155 *Notice regarding delayed sidewalk repairs. For any repair work scheduled to be performed by or on behalf of the department on a sidewalk damaged by a tree under the jurisdiction of the department that is delayed or canceled, the department shall provide electronic notice of such delay or cancellation to the community board for the community district where such sidewalk is located, the council member in whose district the sidewalk is located and the borough president for the borough where such sidewalk is located. Such notice shall be provided no later than 10 days after the originally scheduled date for such repair work, provided that such work is not completed before then.*

§ 2. This local law takes effect 90 days after it becomes law, except that the commissioner may take such measures as are necessary for the implementation of such sections, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Parks and Recreation.

Int. No. 1829

By Council Member Matteo.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of transportation to post information online regarding scheduled and requested street maintenance and traffic control changes

Be it enacted by the Council as follows:

Section 1. Section 19-154 of the administrative code of the city of New York, as added by local law number 1 for the year 2012, is amended to read as follows:

§ 19-154 *Publication of street [resurfacing] maintenance and traffic control information.* [a. The commissioner shall make available online through the department's website information regarding the resurfacing and capital improvement of city blocks. Such information shall include but not be limited to: (i) what year city blocks were last resurfaced or received capital improvement; (ii) the current rating for city blocks pursuant to the department's street rating system as one of the following: good, fair, or poor.

b. On or before January 31, 2013, the information required by subdivision a of this section shall be searchable by city block.] *The department shall post on its website certain information relating to street*

maintenance and traffic controls under the department's jurisdiction. The department shall update such information at least monthly and shall, at a minimum, include the following:

- 1. The year of each city block's last resurfacing;*
- 2. The current rating for each city block's street condition pursuant to the department's street rating system as one of the following: good, fair or poor;*
- 3. The date and location of each upcoming street maintenance project, including but not limited to milling, resurfacing, street cuts and repairs of potholes, cave-ins, hummocks and ponding conditions;*
- 4. The status of requests relating to resurfacing or other street maintenance. Such status information shall include the date of the request, the location of the requested maintenance, the type of maintenance requested, any determination made by the department regarding such request and any completed or scheduled resurfacing or other street maintenance that addresses the request; and*
- 5. The status of requests relating to changes in traffic flow, speed limits and other traffic control measures. Such status information shall include the date of the request, the location of the requested change, the change requested, any determination made by the department regarding such request and any completed or scheduled changes that address the request.*

§ 2. This local law takes effect 180 days after it becomes law.

Referred to the Committee on Transportation.

Res. No. 1782

Resolution calling upon the New York State Legislature to pass, and the Governor to sign, A.9677/S.7048 which would authorize New York City to provide a \$400 real property tax rebate to residential homeowners in Fiscal 2018

By Council Member Matteo.

Whereas, For the last three fiscal years, the amount of property tax revenue collected by the City of New York has been on the rise with \$20.0 billion collected in Fiscal 2014, \$21.3 billion collected in Fiscal 2015, and \$22.9 billion collected in Fiscal 2016; and

Whereas, The City's projections for property tax revenue collection for the next four years continues this trend, with \$24.0 billion projected in Fiscal 2017, \$25.4 billion projected in Fiscal 2018, \$26.9 billion projected in Fiscal 2019, and \$28.2 billion projected in Fiscal 2020; and

Whereas, At the same time that the City has been collecting record high property tax revenues, it has seen higher-than-projected savings above operating expenditures in each year, specifically \$212 million in Fiscal 2014, \$2.5 billion in Fiscal 2015, and \$897 million in Fiscal 2016; and

Whereas, As homeowners' property tax bills have grown, they have not seen a commensurate rise in income; and

Whereas, Median income over the last several years has remained stagnant while property tax bills in the last fiscal year alone have grown nearly four percent for owners of one- to three-family homes, nearly seven percent for owners of cooperatives, and more than 11.5 percent for owners of condominiums; and

Whereas, The homeowners throughout the City who have contributed to these rising revenues and shouldered the burden of their mounting property tax bills should now benefit from the thriving economy in the form of a property tax rebate; and

Whereas, On March 18, 2016, Senator Andrew Lanza introduced S.7048 and on March 29, 2016, Assembly Member Michael Benedetto introduced A.9677; and

Whereas, These pieces of legislation would authorize the City to adopt a local law providing homeowners of one- to six-family residences and residential cooperative and condominium apartments with a one-time, property tax rebate of up to \$400 in Fiscal 2018; and

Whereas, There is precedent for providing relief to homeowners in such a manner during times of prosperity; and

Whereas, Before the 2008 recession, a \$400 rebate was authorized by the State, approved by the Council, and distributed to homeowners in Fiscal 2004, Fiscal 2005, Fiscal 2006, and Fiscal 2007; and

Whereas, Now that the City has recovered from the 2008 recession and City coffers have swelled, homeowners, many of whom are senior citizens, middle-class families, or otherwise living on a fixed income, should be provided with some financial relief; and

Whereas, Even such modest relief as a \$400 property tax rebate could alleviate their burden of the rising cost of living and help them pay their bills; and

Whereas, The City may not always be in the financial position to be able to provide a property tax rebate to homeowners, but when it is fortunate enough to be able to do so the City should share that good fortune with the hard-working residents who helped create it; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign, A.9677/S.7048 which would authorize New York City to provide a \$400 real property tax rebate to residential homeowners in Fiscal 2018.

Referred to the Committee on Finance.

Res. No. 1783

Resolution calling on the federal government to enhance and commit long-term funding to the National Flood Insurance Program, which aims to reduce the impact of flooding on private and public structures across cities in the United States, including the City of New York

By Council Members Menchaca, Treyger and Williams.

Whereas, The 2017 hurricane season consisted of three very powerful and destructive land-falling storms in Texas with Hurricane Harvey, Florida with Hurricane Irma and Puerto Rico with Hurricane Maria; and

Whereas, Hurricane Harvey caused mass flooding and cost the state of Texas approximately \$180 billion in damages, and

Whereas, Hurricane Irma was recorded as one of the strongest hurricanes in the Atlantic Ocean with wind speeds of 180mph causing power outages to millions of people, and

Whereas, Hurricane Maria caused power outages, flash flood warnings and infrastructure damage with winds over 100mph and 30 inches of rain, and

Whereas, According to the Congressional Budget Office, a bipartisan agency that analyzes the economy for the United States Congress (Congress), 1.2 million Americans live in coastal areas prone to home and business damage from hurricanes and other storms; and

Whereas, The Congressional Budget Office estimates that hurricanes and other storms cause approximately \$28 billion in damages nationwide annually, of which the federal government pays for approximately 60 percent with the rest of the costs being borne by state and local governments, insurance and individuals; and

Whereas, The National Flood Insurance Program (NFIP) was created by Congress in 1968 to provide flood insurance to property owners seeking to protect themselves against financial losses due to flooding; and

Whereas, If a home is in a flood zone, lenders require the homeowner to obtain flood insurance in order to close on mortgage financing; and

Whereas, NFIP is managed by the Federal Emergency Management Agency (FEMA) and has approximately 20,600 participating communities including 5 million residents and businesses in both high-risk and moderate-to-low risk areas throughout the United States; and

Whereas, Property owners can obtain an NFIP flood insurance policy through the federal government directly or through Write Your Own, a federal program that works with private insurance companies who market, sell, administer and adjust NFIP insurance policies; and

Whereas, Over the years, NFIP has acquired approximately \$24 billion in debt as a result of collecting less in premiums and surcharges than the program distributes in claims, and owes the Department of Treasury approximately \$23 billion; and

Whereas, In the past, Congress authorized FEMA to borrow funds from the Department of Treasury when necessary to cover claims related to damages from storms; and

Whereas, As a result of hurricanes occurring more frequently and homeowners not being able to afford flood insurance, NFIP will most likely not generate enough revenue to repay funds borrowed from the Department of Treasury to cover the costs of claims from recent and past hurricanes; and

Whereas, It has been reported that in order to repay these debts, NFIP would need decades free of catastrophic storms; and

Whereas, Congress needs to make changes to better protect ratepayers and taxpayers as more natural disasters are expected to continue in the future; and

Whereas, NFIP was initially set to expire on September 30, 2017; however, the “Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017,” signed into law on September 8, 2017, reauthorizes NFIP until December 8, 2017, allowing Congress additional time to consider reforms to the program and also authorized \$15.25 billion in emergency funding for disaster relief and rebuilding which includes \$7.8 billion for Hurricane Harvey victims; now, therefore, be it

Resolved, That the Council of the City of New York calls on the federal government to enhance and commit long-term funding to the National Flood Insurance Program, which aims to reduce the impact of flooding on private and public structures across cities in the United States, including the City of New York.

Referred to the Committee on Recovery and Resiliency.

Int. No. 1830

By the Public Advocate (Ms. James) (by request of the Manhattan Borough President).

A Local Law in relation to establishing a charter revision commission to draft a new or revised city charter

Be it enacted by the Council as follows:

Section 1. There is hereby established a commission to draft a new or revised charter for the city of New York to be known as the New York City charter revision commission.

§ 2 Composition of the commission. a. The commission shall consist of 15 members to be appointed as follows:

1. four members appointed by the mayor;
2. four members appointed by the speaker of the city council;
3. one member appointed by each borough president;
4. one member appointed by the public advocate; and
5. one member appointed by the comptroller.

b. The commission members shall elect from among the membership a chairperson and vice chairperson.

c. No commission member shall be a registered lobbyist as that term is defined in subdivision (a) of section 3-211 of the code. Any person who has business dealings with the city, as that term is defined in subdivision 18 of section 3-702 of the code, may serve as a commission member only after approval by the city's conflicts of interest board and only subject to such restrictions or limitations on their duties and responsibilities for the commission as the conflicts of interest board may require.

d. No person shall be disqualified to serve as a commission member by reason of holding any other public office or employment, nor shall they forfeit any such office or employment by reason of their appointment hereunder, notwithstanding the provisions of any law.

e. Any vacancy in the membership of the commission or of its officers shall be filled by appointment made by the appointing authority of the original appointee creating the vacancy. A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission and eight members thereof shall constitute a quorum.

f. Commission members shall receive no compensation for their services, but shall be reimbursed for the actual and necessary expenses incurred by them in the performance of their duties.

g. The terms of office of the commission members shall expire on the day of the election at which the proposed new or revised charter prepared by the commission is submitted to the qualified electors of the city, or on the day of the second general election following the date of the enactment of this local law if no such questions have been submitted by that time.

§ 3. Commission mandate and powers. a. The commission shall review the entire charter and prepare a draft of a proposed new or revised charter.

b. The city shall make appropriations for the support of the commission and the commission may accept any services, facilities, or funds and use or expend the same for its purposes from the city. In addition, the city shall have the power, on the request of the commission, to appropriate to such commission such sum or sums as shall be necessary to defray its expenses.

c. The commission shall appoint and may at pleasure remove such employees and consultants as it shall require and fix their compensation.

d. No commission employee or consultant shall be a registered lobbyist as that term is defined in subdivision (a) of section 3-211(a) of the administrative code. Any person who is a person doing business with the city, as that term is defined in subdivision 18 of section 3-702.18 of the administrative code, may serve as a commission employee or consultant only after approval by the city's conflicts of interest board and only subject to such restrictions or limitations on their duties and responsibilities for the commission as the conflicts of interest board may require.

e. No person shall be disqualified to serve as a commission employee or consultant by reason of holding any other public office or employment, nor shall they forfeit any such office or employment by reason of their appointment hereunder, notwithstanding the provisions of any law.

f. The commission shall conduct not less than one public hearing in each of the five boroughs of the city and shall conduct an extensive outreach campaign that solicits ideas and recommendations from a wide variety of civic and community leaders, and that encourages the public to participate in such hearings. The commission shall also have power to conduct private hearings, take testimony, subpoena witnesses, and require the production of books, papers, and records. On request of the commission, the mayor may direct any board, body, officer or employee of the city to cooperate with, assist, advise, provide facilities, materials or data, and render services to the commission.

§ 4. Submission of recommendation for voter approval. a. The commission may require that its proposed charter be submitted in two or more parts so arranged that corresponding parts of the existing charter shall remain in effect if one or more of such parts are not adopted, or may in lieu of a new charter submit a revision of the existing charter in one or more amendments and may also submit alternative charters or amendments or alternative provisions to supersede designated portions of a proposed charter or amendment if adopted.

b. The commission is authorized to submit its proposed new or revised charter to the electors of the city at a general or special election, and shall complete and file in the office of the city clerk its proposed new or revised charter in time for submission to the electors not later than the second general election after the date of the enactment of this local law.

§ 5. Severability. If any provision of this local law, or any amendments thereto, shall be held invalid or ineffective in whole or in part, or inapplicable to any person or situation, such holding shall not affect, impair or invalidate any portion of or the remainder of this local law, and all other provisions thereof shall nevertheless be separately and fully effective and the application of any such provision to other persons or situation shall not be affected.

§ 6. Effective Date. This local law takes effect immediately.

Referred to the Committee on Governmental Operations.

Int. No. 1831

By Council Member Richards.

A Local Law to amend the administrative code of the city of New York, in relation to reducing methane emissions

Be it enacted by the Council as follows:

Section 1. Chapter 8 of title 24 of the administrative code of the city of New York is amended by adding a new section 24-806 to read as follows:

§ 24–806 Reducing methane emissions. a. As used in this section:

Department. The term “department” means the department of environmental protection.

Dwelling unit. The term “dwelling unit” shall have the meaning ascribed to such term in the housing maintenance code.

b. 1. At least once in every five years, the department shall, with the cooperation of all relevant agencies, survey each part of each city-owned building to identify any methane leaks at such building.

2. Where the department identifies a methane leak at such a building, the department shall promptly notify each agency that has jurisdiction over such building and the city shall undertake repairs to stop such leak.

3. Within three months after the end of each fiscal year, the department shall, with the cooperation of all relevant agencies, report to the mayor and the speaker of the council on (i) methane leaks identified at city-owned buildings during such year, (ii) repairs undertaken to correct methane leaks identified at city-owned buildings during such year and (iii) an estimate of the amount of methane emissions reduced as a result of undertaking such repairs.

c. At least once in every five years, the department shall transmit to each gas corporation, as such term is defined in section 2 of the public service law, recommendations regarding repairs and other work undertaken by such corporation to address methane leaks, including but not limited to prioritization of such repairs, and shall at the same time transmit a copy of such recommendations to the mayor and the speaker of the council. Upon receiving responses from such a corporation with respect to such recommendations, the department shall provide a copy of such responses to the mayor and the speaker of the council. Such recommendations and responses thereto, and copies thereof, may be transmitted electronically.

d. For each building located in the city, the owner thereof shall, in accordance with rules promulgated by the department, survey each part of such building to identify any methane leaks at such building, except that (i) for a dwelling unit, as such term is defined in the housing maintenance code, such unit shall be surveyed upon vacancy and (ii) no such part, including a dwelling unit, need be surveyed more often than once in any five-year period.

§ 2. This local law takes effect immediately.

Referred to the Committee on Environmental Protection.

Int. No. 1832

By Council Member Richards.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of correction to conduct a survey related to inmate quality of life

Be it enacted by the Council as follows:

Section 1. Title 9 of the administrative code of the city of New York is amended by adding a new section 9-153 to read as follows:

§ 9-153 Inmate surveys.

a. Commencing one year after the effective date of the local law that added this section, an agent of the department shall provide all inmates with an annual survey regarding such inmate's experiences in city jails. Such survey shall not attribute responses to any individual without their consent. In addition to questions, such survey shall include space for inmates to provide any additional information they wish to share.

b. Such survey shall be designed by the department in coordination with the agent designated in subdivision a of this section and relevant inmate advocates and health professionals.

c. Such survey shall include but not be limited to questions addressing the topics of living conditions and treatment by departmental employees.

d. No later than six months following the first administration of the survey, and annually thereafter, the department shall submit to the speaker of the council and post on its website aggregated data from the surveys required pursuant to this section and any steps the department has taken in response to the information provided in such surveys.

e. No information that is otherwise required to be reported pursuant to this section shall be reported in a manner that would violate any applicable provision of federal, state or local law relating to the privacy of information or that would interfere with law enforcement investigations or otherwise conflict with the interests of law enforcement.

§ 2. This local law takes effect immediately.

Referred to the Committee on Fire and Criminal Justice Services.

Int. No. 1833

By Council Member Rodriguez.

A Local Law in relation to reporting on the illegal usage of parking permits

Be it enacted by the Council as follows:

Section 1. Report a. For the purposes of this section, the term "parking permit" means a document, card, or sticker that is displayed in or on a motor vehicle and that indicates permission to park in a certain area has been granted.

b. No later than March 30, 2018, and on a quarterly basis thereafter, the police department, in consultation with the department of transportation and the department of sanitation, shall submit to the council a quarterly report on the illegal use of parking permits in the city. Such report shall include, but not be limited to, the following:

1. Information on the number of complaints received by the police department in connection with the misuse of parking permits in the city;

2. Information on the number of notices of violation or tickets issued in connection with the misuse or illegal use of parking permits; and

3. A description of how such parking permits were misused in the circumstances.

§ 2. This local law takes effect immediately and is deemed repealed after four years.

Referred to the Committee on Public Safety.

Int. No. 1834

By Council Member Rosenthal, Lander, Williams and Johnson.

A Local Law to amend the administrative code of the city of New York, in relation to increasing the living wage for city-contracted human services workers

Be it enacted by the Council as follows:

Section 1. Paragraphs (2) and (3) of subdivision b of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, are amended to read as follows:

(2) The Living Wage. The living wage shall be an hourly wage rate of [ten dollars per hour and will be phased in as provided below] *\$15 per hour. Beginning in 2019 and each year thereafter, the living wage rate and the health benefits supplement rate shall be adjusted based upon the 12-month percentage increases, if any, in the consumer price index for all urban consumers for all items and the consumer price index for all urban consumers for medical care, respectively, or their successor indexes, if any, as published by the bureau of labor statistics of the federal department of labor, based on the most recent 12-month period for which data is available. The adjusted living wage rate and health benefits supplement rate shall each then be rounded to the nearest five cents.* [Provided, however, that for homecare services under the Personal Care Services program, the wage and health rates below shall only apply as long as the state and federal government maintain their combined aggregate proportionate share of funding and approved rates for homecare services in effect as of the date of the enactment of this section:

- (a) As of the effective date of this section, \$8.10 per hour;
- (b) As of July 1, 2003, \$8.60 per hour;
- (c) As of July 1, 2004, \$9.10 per hour;
- (d) As of July 1, 2005, \$9.60 per hour;
- (e) As of July 1, 2006, \$10.00 per hour.]

(3) Health Benefits. (a) Health Benefits means receipt by a covered employee of a health care benefits package for the covered employee and/or a health care benefits package for the covered employee and such employee's family and/or dependents.

(b) The Health Benefits Supplement Rate shall be [\$1.50] *\$1.75* per hour.

[(c) For homecare services provided under the Personal Care Services program, the wage and health rates above shall only apply as long as the state and federal government maintain their combined aggregate proportionate share of funding and approved rates for homecare services in effect as of the date of the enactment of this section.

(d) In the case of city service contractors or subcontractors providing homecare services, the health benefits requirements of this section may be waived by the terms of a bona fide collective bargaining agreement with respect to employees who have never worked a minimum of eighty (80) hours per month for two consecutive months for that covered employer, but such provision may not be waived for any employees once they have achieved a minimum of eighty (80) hours for two consecutive months and no other provisions of this section may be so waived.]

§ 2. Subparagraph (a) of paragraph (1) of subdivision d of section 6-109 of the administrative code of the city of New York, as added by local law number 38 for the year 2002, is amended to read as follows:

(a) 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. The comptroller shall be responsible for *calculating and publishing the living wage rate, the health benefits supplement rate* and [for calculating and publishing] all applicable prevailing wage and [health benefits] supplement rates. The comptroller shall annually publish the adjusted rates. The adjusted living wage *rate* and health benefits supplement rate shall take effect on July 1 of each year, and the adjusted prevailing wage rates shall take effect on whatever date revised prevailing wage rates determined under section 230 of the [state] labor law are made effective. At least 30 days prior to their effective date, the relevant contracting agencies[,] shall provide notice of the adjusted rates to city service contractors, which shall in turn provide written notification of the rate adjustments to each of their covered employees, and to any city service subcontractors, which shall in turn provide written notification to each of their covered employees. Covered employers shall make necessary wage and health benefits adjustments by the effective date of the adjusted rates.

§ 3. This local law takes effect immediately.

Referred to the Committee on Contracts.

Int. No. 1835

By Council Member Treyger.

A Local Law to amend the administrative code of the city of New York, in relation to posting signs informing consumers about co-pay clawbacks for prescription drugs

Be it enacted by the Council as follows:

Section 1. Subchapter 3 of chapter 5 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-713.2 to read as follows:

§ 20-713.2 *Required signage. Every retail outlet selling prescription drugs within the city must conspicuously post on or near any fixed point of sale terminal a sign in large font informing customers that drugs might cost less than an insurance co-payment. The department shall determine the form of such posting.*

§ 2. This local law takes effect 120 days after it becomes law except that the department shall take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

Referred to the Committee on Consumer Affairs.

Int. No. 1836

By Council Members Treyger, Adams, and Levine.

A Local Law to amend the administrative code of the city of New York, in relation to requiring each police precinct to have a licensed social worker.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 14 of the administrative code of the city of New York is amended by adding a new section 14-171 to read as follows:

§ 14-171 *Social workers at precincts. The department shall have a licensed clinical social worker located at every precinct. Such social workers shall be available at the precinct twenty four hours a day and every day of the week.*

§ 2. This local law takes effect 120 days after it becomes law.

Referred to the Committee on Public Safety.

Int. No. 1837

By Council Member Williams.

A Local Law to amend the New York city building code, in relation to drug and alcohol testing for construction workers

Be it enacted by the Council as follows:

Section 1. Chapter 33 of the New York City building code is amended by adding a new section 3321.3 to read as follows:

§ 3321.3 Drug and alcohol testing for construction and demolition workers. *Each permit holder at a building site for which a construction superintendent, site safety manager or site safety coordinator is required shall be responsible for the following:*

1. *Ensuring that, annually, no less than 25 percent of construction or demolition workers engaged at such site are subject to randomized drug testing before they enter such site;*
2. *Ensuring that, annually, no less than 10 percent of construction or demolition workers engaged at such site are subject to randomized alcohol screening before they enter such site.*

§ 2. This local law takes effect 120 days after it becomes law; except that the commissioner of buildings may promulgate rules or take other actions for the implementation of this local law prior to such effective date.

Referred to the Committee on Housing and Buildings.

Int. No. 1838

By Council Member Williams.

A Local Law to amend the administrative code of the city of New York, in relation to removing certain convictions from consideration for suspension from certain city employment.

Be it enacted by the Council as follows:

Section 1. Subdivison a of section 16-106 of the administrative code of the city of New York is amended to read as follows:

a. The commissioner, in his or her discretion, shall have power to punish any member of the uniformed force who has been guilty of:

1. any legal or criminal offense, *except that conviction for the offenses defined in sections 221.05, 221.10, or 221.15 of the penal law may not be the sole factor in such punishment,*
2. neglect of duty,
3. violation of rules,
4. neglect or disobedience of orders,
5. incapacity,
6. absence without leave,
7. conduct injurious to the public peace or welfare,
8. immoral conduct, or
9. any breach of discipline,

§ 2. This local law takes effect immediately.

Referred to the Committee on Sanitation and Solid Waste Management.

Int. No. 1839

By Council Member Williams.

A Local Law to amend the administrative code of the city of New York, in relation to removing certain convictions from consideration for certain city-issued licenses.

Be it enacted by the Council as follows:

Section 1. Subdivision a of 19-512.1 of the administrative code of the city of New York is amended to read as follows.

a. The commission or successor agency may, for good cause shown relating to a direct and substantial threat to the public health or safety and prior to giving notice and an opportunity for a hearing, suspend a taxicab, for-hire vehicle license or a HAIL license issued pursuant to this chapter and, after notice and an opportunity for a hearing, suspend or revoke such *license except that any conviction for the offenses defined in sections 221.05, 221.10, or 221.15 of the penal law shall not be considered good cause for a revocation or suspension*. The commission or successor agency may also, without having suspended a taxicab, for-hire vehicle license or a HAIL license, issue a determination to seek suspension or revocation of such license and after notice and an opportunity for a hearing, suspend or revoke such license. Notice of such suspension or of a determination by the commission or successor agency to seek suspension or revocation of a taxicab, for-hire vehicle license or a HAIL license shall be served on the licensee by personal delivery or by certified and regular mail within five calendar days of the pre-hearing suspension or of such determination. The licensee shall have an opportunity to request a hearing before an administrative tribunal of competent jurisdiction within ten calendar days after receipt of any such notification. Upon request such hearing shall be scheduled within ten calendar days, unless the commission or successor agency or other administrative tribunal of competent jurisdiction determines that such hearing would be prejudicial to an ongoing criminal or civil investigation. If the tenth day falls on a Saturday, Sunday or holiday, the hearing may be held on the next business day. A decision shall be made with respect to any such proceeding within sixty calendar days after the close of the hearing. In the event such decision is not made within that time period, the license or medallion which is the subject of the proceeding shall be returned by the commission or successor agency to the licensee and deemed to be in full force and effect until such determination is made, unless the commission or successor agency or other administrative tribunal of competent jurisdiction determines that the issuance of such determination would be prejudicial to an ongoing criminal or civil investigation.

§ 2. Subdivision h of section 19-530 of the administrative code of the city of New York is amended to read as follows:

h. An application for a license required by this section or the renewal thereof may be denied where the proprietor, any general partner, officer, director or any owner of ten percent or more of the outstanding stock of the applicant or the chief executive of the applicant as is appropriate, has been convicted of a crime which under article twenty-three-A of the correction law would provide a basis for the denial of such license or renewal, *except that any conviction for the offenses defined in sections 221.05, 221.10, or 221.15 of the penal law shall not be considered in such determination*.

§ 3. This local law takes effect immediately.

Referred to the Committee on Transportation.

Int. No. 1840

By Council Member Williams.

A Local Law to amend the administrative code of the city of New York, in relation to increasing the fine for the use of unauthorized or fraudulent parking placards

Be it enacted by the Council as follows:

Section 1. Subdivision 6 of section 19-166 of the administrative code of the city of New York is amended to read as follows:

6. Has in his or her custody or possession any of the cards hereinbefore mentioned, or any copy or reproduction thereof; is guilty of an offense punishable by a fine of not less than [two hundred fifty dollars] \$1,250, or imprisonment for not more than thirty days, or both.

§ 2. This local law takes effect immediately.

Referred to the Committee on Transportation.

Int. No. 1841

By Council Members Williams, Lander, Rosenthal and Johnson.

A Local Law to amend the administrative code of the city of New York, in relation to increasing the living wage and expanding the class of covered employers to conform to executive order number 7 for the year 2014

Be it enacted by the Council as follows:

Section 1. Section 6-134 of the administrative code of the city of New York is amended to read as follows:

§ 6-134 Living Wage for Employees in City Financially Assisted Workplaces. a. This section shall be known as and may be cited as the “Fair Wages for New Yorkers Act”.

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

(1) “City” means city of New York, and all subordinate or component entities or persons.

(2) “City economic development entity” means a local development corporation, not-for-profit corporation, public benefit corporation, or other entity that provides or administers economic development benefits and with which the department of small business services serves as a liaison pursuant to paragraph b of subdivision one of section 1301 of the New York city charter.

(3) “Comptroller” means the Comptroller of the city of New York and his or her authorized or designated agents.

(4) “Covered employer” means *an employer that is any of the following:*

(a) A financial assistance recipient;

(b) Any tenant, [sub-tenant,] *subtenant*, leaseholder or subleaseholder of the financial assistance recipient [in which the financial assistance recipient maintains an ownership interest of fifty percent or more] who occupies property improved or developed with financial assistance;

(c) Any concessionaire. For purposes of this section, concessionaire shall include any contractor, subcontractor, or tenant operating on [the premises of any stadium, arena, or other sports facility developed pursuant to a project agreement] *property improved or developed with financial assistance;* or

(d) Any person or entity that contracts or subcontracts with a financial assistance recipient to perform work for a period of more than [ninety] *90* days on the premises of the financial assistance recipient or on the premises of property improved or developed with financial assistance including but not limited to temporary services or staffing agencies, food service contractors, and other on-site service contractors.

(5) “Employee” means any person employed by a covered employer within the city of New York. This definition includes persons performing work on a full-time, part-time, temporary or seasonal basis, and includes employees, independent contractors, and contingent or contracted workers, including persons made available to work through the services of a temporary services, staffing or employment agency or similar entity. Provided, however, that if the financial assistance is targeted to particular real property, then only persons employed at the real property to which the financial assistance pertains shall be deemed employees.

(6) “Entity” or “Person” means any individual, sole proprietorship, partnership, association, joint venture, limited liability company, corporation or any other form of doing business.

(7) “Financial assistance” means assistance that is provided to a financial assistance recipient 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 financial assistance recipient enters into a project 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 use 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 undertaken for the benefit of a project subject to a project agreement. 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, such as those under the Industrial and Commercial Abatement Program, the J-51 Program, and other similar programs. 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); further, 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 served or other non-discretionary basis set forth in such state or local law shall not render such abatement, credit, reduction or exemption discretionary. 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 who does not receive financial assistance from the city or a city economic development entity. *All determinations of the existence or the amount of financial assistance in a land sale or ground lease transaction shall be based on an independent appraisal acceptable to the city or city economic development entity of the value of the land or ground lease.*

(8) “Financial assistance recipient” means any entity or person that receives financial assistance, or any assignee or successor in interest of real property improved or developed with financial assistance, including any entity to which financial assistance is conveyed through the sale of a condominium, but shall not include any entity who is exempt under subdivision d of this section.

(9) “Living wage” means an hourly compensation package that is no less than the sum of the living wage rate and the health benefits supplement rate for each hour worked. [As of the effective date of the local law that added this section, the] *The living wage rate [shall be ten dollars] is \$15 per hour and the health benefits supplement rate [shall be one dollar and fifty cents] is \$1.75 per hour.* The portion of the hourly compensation package consisting of the health benefits supplement rate may be provided in the form of cash wages, health benefits or any combination of the two. The value of any health benefits received shall be determined based on the prorated hourly cost to the employer of the health benefits received by the employee. Beginning in 2013 and each year thereafter, the living wage rate and the health benefits supplement rate shall be adjusted based upon the twelve-month percentage increases, if any, in the Consumer Price Index for All Urban Consumers for All Items and the Consumer Price Index for All Urban Consumers for Medical Care, respectively, (or their successor indexes, if any) as published by the Bureau of Labor Statistics of the United States Department of Labor, based on the most recent twelve-month period for which data is available. The adjusted living wage rate and health benefits supplement rate shall each then be rounded to the nearest five cents. Such adjusted rates shall be announced no later than January 1 of each year and shall become effective as the new living wage rate and health benefits supplement rate on April 1 of each year. For employees who customarily and regularly receive tips, the financial assistance recipient may credit any tips received and retained by the employee towards the living wage rate. For each pay period that an employee’s base cash wages and tips received total less than the living wage rate multiplied by the number of hours worked, the financial assistance recipient must pay the employee the difference in cash wages.

(10) “Not-for-profit organization” means an entity that is either incorporated as a not-for-profit corporation under the laws of the state of its incorporation or exempt from federal income tax pursuant to subdivision c of section [five hundred one]501 of the United States internal revenue code.

(11) “Project agreement” means a written agreement between the city or a city economic development entity and a financial assistance recipient pertaining to a project. A project agreement shall include an agreement to lease property from the city or a city economic development entity.

(12) “*Small business cap*” means three million dollars; provided that, beginning in 2015 and each year thereafter, the small business cap shall be adjusted contemporaneously with the living wage rate and using the methodology set forth in paragraph (9) of subdivision b of this section. [“Small business” has the meaning specified in paragraph 1 of subdivision d of this section.]

(13) “*Qualified workforce program*” means any training or workforce development program that serves youth, disadvantaged populations or traditionally hard-to-employ populations. The director of the mayor’s office of workforce development shall, in consultation with the commissioner of small business services, publish a list of such programs.

c. Living Wage Required

(1) Covered employers shall pay their employees no less than a living wage.

(2) In addition to fulfilling their own obligations under this section, financial assistance recipients shall help to ensure that all covered employers operating on their premises or on the premises of real property improved or developed with financial assistance pay their employees no less than a living wage and comply with all other requirements of this section.

(3) The requirements of this section shall apply for the term of the financial assistance or for ten years, whichever is longer, from the date of commencement of the project subject to a project agreement or the date the project subject to a project agreement commences operations, whichever is later.

d. Exemptions

The requirements established under this section shall not apply to the following entities or persons except with respect to the reporting requirements set forth in paragraph 2 of subdivision f of this section:

(1) Any otherwise covered employer that is [a small business, which shall be defined as] an entity that has annual *consolidated* gross revenues [of] *that are less than [five million dollars] the small business cap or the revenues of which are included in the consolidated gross revenues of an entity having annual consolidated gross revenues that are less than the small business cap, in each case calculated for the fiscal year preceding the fiscal year in which the project agreement is entered into and determined in accordance with generally accepted accounting principles.* [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.]

(2) Any otherwise covered employer that is a not-for-profit organization.

(3) Any otherwise covered employer whose principal industry conducted at the project location is manufacturing, as defined by the North American Industry Classification System.

(4) Any otherwise covered employer operating on the premises of a project where residential units comprise more than 75% of the project area, and no less than 75% of the residential units are affordable for families earning less than 125% of the area median income.

(5) [Any otherwise covered employer that is a grocery store participating in the Food Retail Expansion to Support Health (FRESH) program] *Any otherwise covered employer operating on the premises of a project where residential units comprise more than 75% of the project area, and all of the residential units are subject to rent regulation.*

[(6) Any otherwise covered employer that is a construction contractor or a building services contractor, which shall include but not be limited to any contractor of work performed by a watchperson, guard, doorman, building cleaner, porter, handyperson, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, or window cleaner.

(7) Any otherwise covered employer, excepting a financial assistance recipient who executed a project agreement and any entity with which such financial assistance recipient contracts or subcontracts, occupying or operating on the premises of property improved or developed within the geographical delineations described in the definition of "Zone 3 Adjacent Developments," without regard to whether or not the applicable project is deemed to be a "Hudson Yards Commercial Construction Project," as such terms are defined in the first amendment to the Third Amended and Restated Uniform Tax Exemption Policy of the New York City Industrial Development Agency, as approved by the board of directors of the city industrial development agency on November 9, 2010, provided, however, that such exemption shall not extend to any such covered employer who receives financial assistance through the purchase of a condominium in the event that the city or city economic development entity grants such covered employer additional financial subsidies in addition to the financial assistance originally granted pursuant to such project agreement thereafter assigned or otherwise made available to such purchaser following such purchase.]

e. Notice Posting, Recordkeeping and Retaliation

(1) No later than the day on which an employee begins work at a site subject to the requirements of this section, a covered employer shall post in a prominent and accessible place at every such work site and provide each employee a copy of a written notice, prepared by the comptroller, detailing the wages, benefits, and other protections to which employees are entitled under this section. Such notice shall also provide the name, address and telephone number of the comptroller and a statement advising employees that if they have been paid less than the living wage they may notify the comptroller and request an investigation. Such notices shall be provided in English and Spanish. The comptroller shall provide the city with sample written notices

explaining the rights of employees and covered employers' obligations under this section, and the city shall in turn provide those written notices to covered employers.

(2) A covered employer shall maintain original payroll records for each of its employees 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 work is performed. Failure to maintain such records as required shall create a rebuttable presumption that the covered employer did not pay its employees the wages and benefits required under this section. Upon the request of the comptroller or the city, the covered employer shall provide a certified original payroll record.

(3) It shall be unlawful for any covered employer to retaliate, discharge, demote, suspend, take adverse employment action in the terms and conditions of employment or otherwise discriminate against any employee for reporting or asserting a violation of this section, for seeking or communicating information regarding rights conferred by this section, for exercising any other rights protected under this section, or for participating in any investigatory, administrative, or court proceeding relating to this section. This protection shall also apply to any [covered] employee *of a covered employer* or [his or her] *such employee's* representative who in good faith alleges a violation of this section, or who seeks or communicates information regarding rights conferred by this section in circumstances where [he or she] *such employee* in good faith believes this section applies. Taking adverse employment action against an employee or [his or her] *such employee's* representative within [sixty]60 days of the employee engaging in any of the aforementioned activities shall raise a rebuttable presumption of having done so in retaliation for those activities. Any employee subjected to any action that violates this paragraph may pursue administrative remedies or bring a civil action as authorized pursuant to subdivision g of this section in a court of competent jurisdiction.

f. Implementation and Reporting

(1) Each financial assistance recipient shall provide to the comptroller and the city or city economic development entity that executed the project agreement an annual certification, executed under penalty of perjury, stating that all of its employees are paid no less than a living wage, confirming the notification to all covered employers operating on its premises that such employers must pay their employees no less than a living wage and comply with all other requirements of this section, providing the names, addresses and telephone numbers of such employers, and affirming its obligation to assist the city to investigate and remedy non-compliance of such employers. Where the financial assistance applies only to certain property, such statement shall be required only for the employees employed on such property. Where there are multiple covered employers operating on the premises of a financial assistance recipient, each covered employer shall, prior to commencing work at such premises, provide a statement certifying that all the employees employed by each such covered employer on the property subject to a project agreement are paid no less than a living wage. All statements shall be certified by the chief executive or chief financial officer of the covered employer, or the designee of any such person. A violation of any provision of such certified statements shall constitute a violation of this section by the party committing the violation of such provision.

(2) An otherwise covered employer that qualifies for an exemption from the requirements of this section under subdivision d of this section shall provide a statement, executed under penalty of perjury, certifying that [the] such employer qualifies for an exemption and specifying the basis for that exemption. Such an employer shall update or withdraw such statement on a timely basis if its eligibility for the claimed exemption should change.

(3) The comptroller and the city or city economic development entity that executed the project agreement may inspect the records maintained pursuant to paragraph 2 of subdivision e of this section to verify the certifications submitted pursuant to paragraph 1 of this subdivision.

(4) The city or city economic development entity that executed the project agreement shall maintain for four years all certifications submitted pursuant to this subdivision and make them available for public inspection.

(5) The city shall maintain a list of financial assistance recipients subject to project agreements that shall include, where a project agreement 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.

f-1. Conflicts with other programs. The provisions of section 6-130 supersede any conflicting provision of this section relating to a covered employer. In the event that a covered employer works significantly with a qualified workforce program, subdivision c of this section does not apply, but the city or a city economic

development entity, as applicable, shall, to the extent practicable without impairing the goals of such qualified workforce program, use its best efforts to cause such covered employer to pay no less than a living wage to its employees. In addition, if the deputy mayor with jurisdiction over the city agency or a city economic development entity granting financial assistance makes a specific finding that a particular project contributes to the economic wellbeing of the city and cannot reasonably be achieved consistently with the requirement of subdivision c of this section as it applies to covered employers, such deputy mayor may exempt specific employers connected with that project from the requirement of subdivision c of this section.

g. Monitoring, Investigation and Enforcement

(1) 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 employee or an employee's representative claiming a violation of this section, the comptroller shall conduct an investigation to determine the facts relating thereto. The name of any employee identified in a complaint shall be kept confidential as long as possible, and may be disclosed only with the employee's consent, provided, however, that such consent shall not be required once notice is required to be given pursuant to paragraph 4 of this subdivision. For the purpose of conducting investigations pursuant to this section, the comptroller shall have the authority to observe work being performed on the work site, to interview employees during or after work hours, and to examine the books and records relating to the payrolls being investigated to determine whether or not the covered employer is in compliance with this section. 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 the project agreement withhold any payment due to the financial assistance recipient in order to safeguard the rights of the employees.

(2) The comptroller shall report the results of such investigation to the mayor, or his or her designee, who shall, in accordance with provisions of paragraph 4 of this subdivision and after providing the covered employer 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 the covered employer committing the applicable violations:

(a) Direct payment of wages and/or the monetary equivalent of benefits wrongly denied, including interest from the date of underpayment to the employee, 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;

(b) Direct payment of a further sum as a civil penalty in an amount not exceeding two hundred percent of the total amount found to be due in violation of this section;

(c) Direct the filing or disclosure of any records that were not filed or made available to the public as required by this section;

(d) Direct the reinstatement of, or other appropriate relief for, any person found to have been subjected to retaliation or discrimination in violation of this section;

(e) Direct payment of the sums withheld at the commencement of the investigation and the interest that has accrued thereon to the financial assistance recipient; and

(f) Declare ineligible to receive financial assistance or prohibit from operating as a covered employer on the premises of a financial assistance recipient or on real property improved or developed with financial assistance any person against whom a final disposition has been entered in two instances within any consecutive six year period determining that such person has willfully failed to pay the required wages in accordance with the provisions of this section or to comply with the anti-retaliation, recordkeeping, notice, or reporting requirements of this section.

(3) 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 employer, and the failure to comply with record-keeping, notice, reporting, or other non-wage requirements. Any civil penalty shall be deposited in the city general fund.

(4) Before issuing an order, determination, or any other disposition, the mayor or his or her designee 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, may negotiate an agreed upon stipulation of

settlement or refer the matter to the office of administrative trials and hearings for a hearing and disposition. Such covered employer shall be notified of a hearing date by the office of administrative trials and hearings, or other appropriate tribunal, and shall have the opportunity to be heard in respect to such matters.

(5) When a final disposition has been made in favor of an employee 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.

(6) 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.

(7) Upon determining that a covered employer is not in compliance, and where no cure is effected and approved by the mayor, or his or her designee, as applicable pursuant to paragraph 2 of this subdivision, the city or city economic development entity shall take such actions against such covered employer as may be appropriate and provided for by law, rule, or contract, including, but not limited to: declaring the financial assistance recipient who has committed a violation in default of the project agreement; imposing sanctions; or recovering from such covered employer the financial assistance disbursed or provided to such covered employer, including but not limited to requiring repayment of any taxes or interest abated or deferred.

(8) 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 an employee, if the court finds in favor of the employee, it shall award the employee, in addition to other relief, his/her reasonable attorneys' fees and costs.

(9) Notwithstanding any inconsistent provision of paragraph 8 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, provided, however, that for purposes of this paragraph the failure of the comptroller or the mayor to issue a disposition within one year of the filing of a complaint shall be deemed to be a dismissal.

(10) A civil action commenced under this section shall be commenced in accordance with subdivision 2 of section 214 of the [New York] civil practice law and rules.

(11) 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 employee's right to bring a common law cause of action for wrongful termination.

(12) Notwithstanding any inconsistent provision of this section or any other general, specific, or local law, ordinance, city charter, or administrative code, an employee affected by this law shall not be barred from the right to recover the difference between the amount paid to the employee and the amount which should have been paid to the employee under the provisions of this section because of the prior receipt by the employee without protest of wages or benefits paid, or on account of the employee's failure to state orally or in writing upon any payroll or receipt which the employee is required to sign that the wages or benefits received by the employee are received under protest, or on account of the employee'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 to the employee for the period covered by such payment.

h. Living Wage Preferred

(1) The city and city economic development entity shall encourage living wage jobs on economic development projects, including those jobs offered by tenants, sub-tenants, and leaseholders of [subsidy] *financial assistance* recipients, by employing measures that may include exercising a preference when evaluating responses to requests for proposals and other solicitations for those parties who commit to the

payment of a living wage and those who demonstrate that they have paid and/or required related parties to pay a living wage on prior projects. The city and city economic development entity shall strive to achieve a living wage for 75% or more of the hourly jobs created overall with respect to the portfolio of all such economic development projects.

(2) Upon entering into any agreement to develop property for an economic development project, the city or city economic development entity shall submit to the council a report detailing its efforts to provide living wage jobs. Such report shall indicate whether its agreement with the economic development [subsidy] *financial assistance* recipient mandated the payment of a living wage for any jobs created by the project. If the agreement includes such a mandate, the city or city economic development entity shall provide an analysis outlining the number of living wage jobs anticipated to be created beyond those jobs for which a living wage is required pursuant to this section and a description of the applicable penalties if the wage requirement in the agreement is not ultimately fulfilled. If the agreement does not include such a mandate, the city or city economic development entity shall explain why such an agreement could not be reached.

(3) The city shall submit to the council and post on the city's website by January 31 of each year a report detailing the extent to which projects that receive financial assistance provide employees a living wage. Such reports shall provide, for employees at each site covered by the project in the categories of industrial jobs, restaurant jobs, retail jobs, and other jobs, including all permanent and temporary full-time employees, permanent and temporary part-time employees, and contract employees, the total number of employees and the number and percentage of employees earning less than a living wage, as that term is defined in this section. Reports with regard to projects for which assistance was received prior to July 1, 2012 need only contain such information required by this paragraph as is available to the city, can be reasonably derived from available sources, and can be reasonably obtained from the business entity to which assistance was provided.

i. Miscellaneous

(1) The provisions of this section shall not apply to any financial assistance that was provided prior to the enactment of the local law that added this section, nor shall they apply to any project agreement that was entered into or to any project for which an inducement resolution was adopted in furtherance of entering into a project agreement prior to the enactment of the local law that added this section, except that extension, renewal, amendment or modification of such project 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 financial assistance recipient and any other covered employers operating on the premises of the financial assistance recipient or at the real property improved or developed with financial assistance subject to the requirements of this section.

(2) 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 any 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. To this end, the parts of this section are severable.

(3) This section shall be liberally construed in favor of its purposes. This section shall not be construed to preempt or otherwise limit the applicability of any law, policy, contract term or other action by the city or a city economic development entity that provides for payment of higher or supplemental wages or benefits, or for additional penalties or remedies for violation of this or any other law.

§ 2. This local law does not apply to projects authorized or financial assistance awarded before the effective date of this local law. This local law shall not be applied in a manner that interferes with contracts or agreements entered into by the city or a city economic development entity before the effective date of this local law.

§ 3. This local law takes effect 90 days after it becomes law.

Referred to the Committee on Contracts.

Res. No. 1784

Resolution calling on the New York City Housing Authority (NYCHA) to add unlawful possession of marijuana and criminal possession of marijuana in the fourth and fifth degrees to its list of “overlooked offenses,” and stop considering these offenses as grounds for termination of tenancy.

By Council Member Williams and Menchaca.

Whereas, Scientific and medical studies have shown that marijuana is less harmful than legal substances such as alcohol and tobacco; and

Whereas, A 2015 study published in *Scientific Reports* found that marijuana is 114 times less deadly than alcohol; and

Whereas, That study also found that marijuana presented the lowest mortality risk of the drugs it examined, which also included tobacco, cocaine, heroin, ecstasy, and methamphetamines; and

Whereas, Marijuana has a well-documented history of health benefits; and

Whereas, In January of 2017, the United States National Academies of Science, Engineering, and Medicine released a report that analyzed more than 10,000 studies and found strong evidence that marijuana lessened chronic pain in adults as well as various side effects of multiple sclerosis and chemotherapy; and

Whereas, Moreover, experimentation with cannabis has become common in the United States; and

Whereas, A Marist poll released in January found that 52 percent of American adults have tried marijuana and that 56 percent believed the drug to be “socially acceptable;” and

Whereas, Even though cannabis poses no unique harms, offers medical benefits, and has been used by millions, prospective residents of public housing in New York City can face up to three years of ineligibility if they are convicted of misdemeanor marijuana possession, under federal law and Housing and Urban Development (HUD) regulations; and

Whereas, These directives also burden the relatives of those who have been convicted, as NYCHA can deny admission to family members of individuals convicted of Class A or B misdemeanors; and

Whereas, In recent years, both federal and local agencies have sought to mitigate these collateral consequences; and

Whereas, In June of 2011, HUD Secretary Shaun Donovan advised executive directors of public housing authorities across the country to consider “second chances,” and examine “all factors that might suggest favorable future conduct” in reviewing applications from potential tenants; and

Whereas, In November of 2014, the New York Police Department (NYPD) announced that it would stop arresting those found to be in possession of up to 25 grams of marijuana, and begin issuing court summonses and fines instead; and

Whereas, It is worth noting that New York is one of sixteen states that does not ban individuals from receiving public assistance due to a prior drug conviction; and

Whereas, New York state law still treats possession of marijuana in a public place, which can include transportation facilities, parks, and places of amusement, as a crime, for which one can spend as many as three months in jail; and

Whereas, This means that an applicant for public housing who was found in possession of a small amount of marijuana in a public park, a class B misdemeanor, could not only spend time in jail but also make his or her family ineligible for public housing for three years; and

Whereas, NYCHA has the discretion to determine which offenses it overlooks and which it considers for prospective applicants; and

Whereas, In accordance with existing medical consensus, and consistent with prior federal and local policy shifts, adding fourth and fifth degree marijuana possession to NYCHA’s list of overlooked offenses would not only preserve access to public housing for thousands but also prevent families from adverse circumstances in the event of a minor drug infraction; now, therefore, be it

Resolved, That the Council of the City of New York calls upon NYCHA to add unlawful possession of marijuana and criminal possession of marijuana in the fourth and fifth degrees to its list of “overlooked offenses,” and stop considering these offenses as grounds for termination of tenancy.

Referred to the Committee on Public Housing.

Preconsidered L.U. No. 834

By Council Member Ferreras-Copeland:

Banana Kelly, Block 2711, Lots 13, 14 and 16; Bronx, Community District No. 2, Council District No. 17.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

<http://legistar.council.nyc.gov/Calendar.aspx>

A N N O U N C E M E N T S

Wednesday, January 3, 2018

Charter Meeting – 12:00 p.m.

During the Motion to spread the Invocation upon the record, Council Member Garodnick acknowledged the presence of several family members in the Chambers who had joined him for his final meeting as a Council Member: his wife Zoey; his two sons Asher, going on 7, and Devin, 4; and his father David Garodnick. Later in the Meeting, Council Member Garodnick invoked the memory of his late mother, Barbara, as well. The Public Advocate (Ms. James) welcomed the Garodnick family to the Chambers.

During the Communication from the Speaker segment, the Speaker (Council Member Mark-Viverito) congratulated Council Member Reynoso and his wife Iliana on the birth of their first child, Alejandro.

Also during the Communication from the Speaker segment, the Speaker (Council Member Mark-Viverito) announced that the Council was adopting the New York City Councilmatic website as an official government tool. This new site would allow the public to more efficiently search for the Council’s legislative information and pull data directly from the Council’s API. She thanked Council Members Kallos, Vacca, and Lander for their dedication to these issues as well as Beta NYC, DataMade, and David Moore of the Participatory Politics Foundation for pushing the project forward.

Finally during the Communication from the Speaker segment, the Speaker (Council Member Mark-Viverito) acknowledged that these Stated Meeting proceedings were her final as the Speaker. She thanked her colleagues for their invaluable support and friendship throughout the years. The Speaker (Council Member Mark-Viverito) noted that the session had been the most productive Council session ever with over a record 700 bills being passed. She acknowledged that the quest for justice had been the driving force behind her decisions as a Council Member and as Speaker of the Council. She felt honored and grateful at having the privilege to lead this institution and credited the support of everyone in the Council for the successes that had been achieved. The Speaker (Council Member Mark-Viverito) thanked her fellow colleagues, the professional Council staff, and even those who had held the Council accountable at hearings and rallies. She expressed her deep appreciation for everyone in the Speaker’s Office as well as for the heads of the individual divisions who demonstrated incredible leadership in their own right. She encouraged everybody to be proud for helping create a better and more equitable city for all New Yorkers including for those who often felt invisible, disrespected, or disenfranchised. The Speaker (Council Member Mark-Viverito) concluded with some personal thoughts and thanked everyone once again as those assembled in the Chambers applauded and cheered.

During the Meeting, departing Council Members Crowley, Ferreras-Copeland, Garodnick, Gentile, Greenfield, Mealy, Mendez, Palma, Vacca, and the Speaker (Council Member Mark-Viverito) gave their farewells and thanked everyone for their support. The departing Council Members were also praised and thanked for their service by their fellow colleagues in the Chambers.

Whereupon on motion of the Speaker (Council Member Mark-Viverito), the Public Advocate (Ms. James) adjourned these proceedings to meet again for the Charter Meeting of the new session on Wednesday, January 3, 2018.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

Editor's Local Law Note: Int. No. 508-A, adopted by the Council at the November 16, 2017 Stated Meeting, was signed into law by the Mayor on December 16, 2017 as Local Law No. 238 of 2017.

Int. Nos. 657-A, 1116-A, 1257-A, 1267-A, 1463-A, 1528-A, 1557-A, 1579-A, 1588-A, 1637-A, 1673-A, 1692-A, 1707-A, 1722-A, and Preconsidered Int. No. 1763, all adopted by the Council at the November 16, 2017 Stated Meeting, were returned unsigned by the Mayor on December 19, 2017. These items had become law on December 17, 2017 due to the lack of Mayoral action within the Charter-prescribed thirty day time period. These bills were assigned subsequently as Local Laws Nos. 239 to 253 of 2017, respectively.

Editor's End of Session Note: This Stated Meeting marks the end of the Council's proceedings for the 2014-2017 legislative session. The following ten Council Members were departing the Council as of December 31, 2017: Council Members Elizabeth S. Crowley, Julissa Ferreras-Copeland, Daniel R. Garodnick, Vincent J. Gentile, David G. Greenfield, Darlene Mealy, Rosie Mendez, Annabel Palma, James Vacca, and the Speaker (Council Member Melissa Mark-Viverito).

